

ISLAM

The Bastion of Human Rights

By
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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the Name of Allah, the Beneficent, the Merciful!

Foreword

It is my pleasant duty to introduce to readers the path breaking book on human rights by **Maulana Syed Jalaluddin Omari**. The author has penned more than 40 books and is well known for his scholarship, depth of knowledge and lucid style. For the last sixty years, he has written on Islamic doctrine, exegesis of Qur'an, understanding of Hadith, life of the Prophet (pbuh), popular introduction of Islam, the message of Islam and its propagation. Through his works, he has delved extensively on important social themes such as family system, inter-community relations, social service, health and ethics. The author has based his writings on his understanding of the concepts and teachings presented by Islam. He has referred extensively to the Qur'an and the traditions of the Prophet (pbuh), as well as to recognized Muslim authorities of the past. His mastery over the legacy of Muslim learning is clearly visible in the breadth of vision seen in his writings. Besides Muslim researchers, the author has also critically examined the Western stance on social issues. Thus his writings succeed in presenting the Islamic viewpoint in contemporary idiom.

The author has been engaged in writing about Islamic message from a variety of perspectives. In spite of producing such exhaustive material and voluminous works, he is not merely a researcher. Rather, he has simultaneously been active in the social field;

primarily through his association with Jamaat-e-Islami Hind. The Jamaat is a well known organization with its activities spread all over India. It seeks to disseminate the message of Islam to all and rebuild social institutions in the light of divine guidance. The author is currently the president (Ameer) of Jamaat-e-Islami Hind and in that capacity, actively interacts with a large section of society. He is thus familiar with ground realities and social undercurrents. The Jamaat, under his guidance has developed a comprehensive vision for individual and social transformation; to be brought about through sincere efforts of men and women committed to belief in God and His divine guidance. The author is also associated with a number of other social and educational initiatives. The All India Muslim Personal Law Board is a collective platform of Indian Muslims created to address issues related with Muslim Personal Law. Maulana Omari has been actively associated with the activities of the Board since its inception half a century back. Currently he is Vice president of the Board. He is also the Sheikh ul Jamia (rector) of an important educational institution Jamiatul Falah, located in Uttar Pradesh. This institution has grown under his supervision from strength to strength with thousands of students, both male and female receiving instruction in it. With its enlightened view of education and teaching, its curriculum includes not only Arabic and Islamic teachings but also social sciences and languages. Its graduates may be found in large numbers in India and abroad, serving in important capacities or pursuing higher education and research.

Besides the above engagements, Syed Jalaluddin Omari is also the president of Idara Tahqeeq-o-Tasneef

Islami of Aligarh, which is an institution devoted to research and training in Islamic disciplines. This institution has a history of sixty years behind it. Here scholars are engaged in fulltime research while graduate students are trained in methods of research, through a two year intensive programme. The author has been associated with it for more than half a century and has contributed immensely towards its development. He is also the chief editor of the quarterly research journal published (in Urdu) by this institution called "Tahqiqaat-e-Islami" which has completed thirty five years of publication. The author is also the chief patron of another educational institution at Aligarh, the Sirajul Uloom Niswaan College. With this formidable array of educational and social activities; the author has acquired a perspective which lets him make an accurate assessment of social realities; in particular those which exist in India. In these various capacities, the author is in direct and continuous contact with scholars, researchers, students, activists, intellectuals, media, youth and laymen. This wide exposure has left its impact on his writings, where he demonstrates his capacity to grapple with practical issues; while maintaining intellectual rigor and analytic precision.

The present book by the author is originally written in Urdu and is available in a number of Indian languages as well. Its English translation is being presented now. The theme of the book is an exposition of the Islamic perspective on human rights. Islam has the unique distinction of combining the twin features of authenticity and relevance in its system of thought and action. On the one hand, Islam means the authentic and comprehensive guidance provided by Almighty to

mankind; while on the other hand, Islam addresses the acute problems of human society; providing principled approach to arriving at feasible solutions; in a spatio temporal matrix which itself may be changing. The author in his research oriented approach has kept himself tuned to this marvellous nature of Islam; where man's spiritual quest for highest realities coexists with and indeed supports the proper development of his individual and social personality. The topic of human rights, in this paradigm, therefore acquires a new significance. Such rights do not merely remain social obligations or legal imperatives; rather they become an important aspect of a believer's living relation with the Supreme Creator. This characterization elevates the rights to an exalted status; where their violation is not merely a legal crime but also a sin. Islam's capacity to synthesize morality and law thus becomes apparent. This in no way diminishes the legal weightage of the various rights; they would of course, be protected by state power with due diligence.

The author dispels the notion that human rights arose from historical development in the post Renaissance Europe. It is true that the world today is familiar with the conceptions articulated in the West because Western wisdom and power dominate the world scene. Nevertheless, as a matter of fact, the revealed law given by the Almighty had invariably (in all periods of history) prescribed rules for human conduct (besides teaching man the way to spiritual enlightenment and ethical progress). The revealed law given to such prophets (pbuh) as Moses included instructions on human rights and people were motivated to respect the rights of others. In continuity with the Prophetic tradition, Islam presented its

guidance on human rights; thus Islamic discourse arrived on the world scene, a millennium before Europe was able to present any coherent view regarding human rights. In this book, the author has critically examined the Western discourse on human rights; as it developed in response to changing times. He has noted the important features of the human rights movement in the West and pointed out its characteristic weaknesses. In contrast, the Islamic paradigm of human rights is comprehensive, realistic and responsive to social needs.

After describing their historical evolution, the author then focuses on rights per se. The ultimate sanction for them derives from the recognition of specific rights in the revealed law. The author has compiled a comprehensive list of human rights and quoted the relevant Qur'anic verses as well as the traditions of the Prophet (pbuh) to establish their legal status. Briefly he has, at appropriate places pointed out the explanations and commentaries presented by experts of the Islamic law. Key rights enumerated by the author include rights to life, equality and justice. He mentions the principle of "rule of law" as a fundamental concept which Islamic state is bound to implement as its permanent policy. In general, the state is expected to be the watchful guardian of people's rights; to the extent that even the guilty may not be given any undue punishment, in the Islamic state.

The book consists of nine chapters. The author summarises the historical and conceptual background of the subject and presents the basic rights in the first three chapters. Then he turns his attention to specific issues whose importance demands their separate analysis. Accordingly the next chapter is about basic

needs of human beings. Today's welfare state has recognized human needs in principle but Islamic conception is much wider and richer in scope. Thus the needs of food, clothing, shelter and transport are recognized as basic. The role of state has been spelled out that it is duty bound to provide the basic needs for all citizens. Institutional arrangements to achieve this level of prosperity are among state's priorities. The worldview and ethics of Islam guide the state as well as its citizens towards proper measures to be adopted towards the desired end.

Chapter 5 develops the theoretical frame work further to introduce the category of social rights. Included in them are freedom of thought and expression (regulated by ethical norms). Everyone has the right to establish a family to lead a fulfilling conjugal life. Islam respects privacy of people and does not permit undue interference in private life of individuals. Clear etiquette has been taught to believers about rules to be observed in social visits and gatherings. One very important right recognized by Islam is the right of everyone to participate meaningfully in collective affairs of society. One is permitted to keep an eye on rulers, criticize them if need be, offer one's advice and counsel to them and seek reform. This social role liberates people and actualizes the principle of equality implied by the Islamic worldview.

The four final chapters of the book focus on areas often neglected in usual discourse on human rights. Thus two chapters describe the rights of the weak and the handicapped; the reader may be amazed to learn about the remarkable sensitivity shown by Islam towards protection of rights of the weak. The next

chapter is on the right of defence; if attacked, an individual is fully authorised by Islam to defend his life, honour, wealth and kin. The book concludes with a chapter on religious freedom. Islam does not permit coercion in matters of religion and belief. Rather it promotes an atmosphere, in which people may exercise their thinking faculty, listen to various views and arrive at the truth.

We are convinced that today's world needs to be familiarized with Islam, its world view, ethical system, doctrines and prescriptions. The present book is a valuable step in that direction. We recommend that Islamic conception of human rights be carefully studied by all those who wish to restore human dignity in practice and establish justice on the earth.

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Preface

Every human being is born in this world with some innate rights. It is another matter that these rights may or may not actually be enjoyed by human beings. Denial of basic rights of any individual is not a trivial matter because rights provide opportunities for progress. Denial of rights leads to deprivation and all chances of a person's growth disappear. Obviously one must know what these rights are? Are the rights same for all or are there some valid distinctions? How can these rights be protected? Such questions are being debated in today's world, as they have always been debated, in human history.

Human rights, their protection and possible violation obviously invite scrutiny; the world opinion closely observes the human rights situation. Attempts are made to awaken society's conscience about sanctity of human rights and legal safeguards are invoked to protect rights of people. Socio-economic and political factors are also employed to promote the cause of human rights. Such efforts on multiple fronts, must be recognized for their worth and appreciated; their beneficial effects may also be noticed. The moot question however is, "Are all such efforts genuinely neutral and not themselves marred by discrimination of one kind or another? Is the issue of protection of rights, at times, made an excuse for violation of these very rights?"

Be as it may; the historical and contemporary background motivates us to seek to understand the Islamic view. Islam has presented a well articulated view of human rights; delineating the rights of individuals, various social units and sections of people. When in authority, Islam ensured the availability of human rights to all; particularly to the deprived sections. Islam sharply criticized violators of rights and warned them of dire consequences, in this world and also in hereafter. Islam, in addition to legal steps, created a conducive atmosphere for availability of rights to oppressed sections and advised the whole society to treat them with respect.

The Qur'an provides the basic view about human rights while the instructions and actions of the Prophet (pbuh) elaborate upon the Qur'anic guidelines. Qur'an and Hadith do not employ the technical legal idiom; wherein rights are listed serially, in the form of articles, along-with their explanation. Actually the style of Qur'an is simultaneously ethical and legal. When presenting moral teachings, Islam mentions human rights as necessary corollaries of morality. It appreciates those noble human beings who are conscious of other's rights and respect them. The Qur'an gives them good tidings of Allah's reward and success in this world and hereafter. On the contrary, in the event of violation of rights and oppression on people; the Qur'an warns the transgressors that their misdeeds would invite Allah's punishment and they would enter the hell fire. Explicit legal instructions about human rights are also given by the Qur'an, in a number of verses. However it is not necessary that a particular right is mentioned only once in the Qur'an; it may have been discussed in several verses.

Actions and instructions of the Prophet (pbuh) are recorded in books of Hadith. They are contextual and one may study them to know the specific teachings given by the Prophet (pbuh), in a particular instance. However, one must make a comprehensive study of Qur'an and Hadith to deduce human rights from them and codify them. Muslim scholars of the past have undertaken such studies and have arrived at coherent discourse on these rights. Their work is of great help in understanding the Islamic law on human rights.

The writer of the present book has been interested for a long time, in the subject of human rights. Some of my studies have been published; the present book is in continuation of them. In it, an attempt has been made to directly present the teachings of Qur'an and Hadith, relevant to this subject. Muslim scholars of the past have done painstaking work in this area which is remarkable for its depth and scope. I have tried to learn from their discussions. Some human rights which have been described in detail in my earlier books have only been briefly mentioned here. Even then, due to lack of space, some pertinent issues have not found mention in the present book. However, one may, from general Islamic principles delineated here, deduce the Islamic stance about them. I must mention the two volume work "Human rights – international challenges" by S. Subramanian, which I have consulted to know the contemporary situation of human rights.

This book is not written in legal language; rather each human right described in it, is deduced from Qur'an and Hadith and the impact of their teachings on society has been examined. Ethical guidelines of Qur'an are mentioned along-with legal rulings. Strong linkage of morality and law is of course well

recognized; accordingly moral sensitivity of individual and society is far more effective than formal legal injunctions in protecting people's rights. A morally upright person wholeheartedly concedes other's rights, even in the absence of legal compulsion. In some discussions in this book, diverse opinions of experts of Islamic law have been quoted. This diversity of opinions is helpful in clarifying many aspects of human rights and indicates the wide range of options available within Islamic law. The objective of the book has been to present authentic version of Islamic teachings on human rights. If need be, reference may be made to it for reliable information, on the subject. In this humble attempt of mine, there may be shortcomings, major and minor. Scholars are requested to let me know any errors or mistakes, encountered by them in this book. Allah will reward them for their efforts and the present writer would be grateful for their guidance. An attempt will be made to rectify such errors. I pray to Allah that He may accept this effort of mine and forgive its shortcomings.

13th Nov. 2004

Jalaluddin Umari

Chapter: I

Human Rights through History

The world of human beings comprises of the weak and the mighty; apparently it has always been so throughout human history. In this situation, our human instinct expects fair play and justice from the mighty elements of society. It expects them not to misuse their power and exhorts them to treat their weak brethren with compassion, sympathy, love and cooperation. Indeed the power they enjoy should be used to uplift the weak enabling them to stand shoulder to shoulder with the rest of the humanity. However, testimony of history tells us that this expectation has seldom been fulfilled. The mighty ones usually managed to enjoy privileges which they denied to others and got away with virtually no obligations. The weak, on the contrary, had no rights to speak of; and were burdened with obligations and duties. The unjust privileges were enjoyed by the powerful and the weak could only shed futile tears. Sometimes, even the freedom to mourn and to register feeble protests against tyranny was denied to them. As a consequence, in most parts of the world, privileged classes dominated over the weaker human beings. All resources were monopolised by these ruling classes and luxuries of all kinds were freely enjoyed by them while the underprivileged had to struggle hard to get even the bare necessities of

life. Ultimately the ruling class became the sole custodian of political power, and economic resources as well as of knowledge and culture. Rulers, ministers, army chiefs, experts, scholars and artistes all arose invariably from this class. The weak could not aspire to any of these positions. They were kept barely alive merely to serve the mighty and were treated as inanimate tools to further enhance the power enjoyed by the rulers. Many additional "rights" were claimed by the powerful classes which had no justification whatsoever; while the weak could not get even their basic rights. They were not even allowed to raise their voice, however feebly, to demand their due.

Mainstream of History

This state of affairs slowly came to be regarded as natural. The mighty ones thought that they had somehow earned their privileges because they were more gifted by nature. The weaker ones were ultimately resigned to their inhuman status and accepted it as their fate. Indeed, at times, the two classes clashed with one another and there were also isolated incidents of revolt; but soon things reverted to the old order. This is a sad but realistic picture of human history which is undoubtedly not a pleasing one. One is tempted to ask whether there were periods in history, which presented a different scene! Did human beings witness periods of justice and fair play, as well? During the long history of humanity, did the masses ever enjoy their rights? Were any voices ever raised calling for justice championing the cause of the weak?

Human Rights Movement

In reply to the above query, one may note that periods of justice and equality were indeed rare in human history. History seems to be replete with innumerable instances of excesses committed by rulers. A few centuries ago there was a spontaneous reaction in the western world, against this state of affairs and manifested itself in the form of mass movement for restoration of human rights. In Europe, the movement was particularly strong in England and France; later it influenced America as well.

It may also be noted that various religious texts had mentioned the basic human rights, though they did not use that particular term. According to modern historians, "Magna Carta" was the first formal document, which introduced the concept of human rights. It was adopted on June 15, 1215 in the reign of King John of England. It did not grant any political rights to the common masses. Rather it was a charter forced upon the king by the English barons. Among other efforts in the West, in this direction, one may mention that in 1188, Alfonso IX was compelled to pass a law against illegal confinement. In 1766, the French thinker Rousseau wrote his famous book presenting his theory of "social contract." His ideas are believed to have provided the impetus to French revolution. In 1789, "Declaration of the rights of Man" was adopted in France. In 1766, in the American state of Virginia, the manifesto of human rights drafted by George Mosion was adopted.

Contribution of UNO

The United Nations organisation (UNO) also passed resolutions on human rights on various

occasions. The important landmark was the "Universal Declaration of Human Rights" which was adopted by UNO, on December 10, 1948. Most of the countries endorsed it and those, who did not formally endorse it refrained from expressing any disagreement with it. It is believed to be a radical step in the history of human rights.

In this declaration, the central focus is on individual liberties and equality and justice. It encompasses political rights in addition to economic, social and cultural rights. Accordingly, everyone is entitled to equal treatment and life and honour of each individual are sacred. Individuals may not be subjected to any coercion and fair play in all matters should be ensured. Specific rights, recognised in this document, are about freedom of faith, religion, and conscience as well as the right to form associations, to travel in the land and to marry by one's choice. In addition, an individual has the right to acquire education, to participate in governance, to seek employment and to protect his privacy.

The highlight of this manifesto is its contribution to the recognition of individual rights; it is supposed to protect them against the excesses of the state. Masses are recognised as the legitimate source of political authority and rulers are supposed to be answerable to them. Justice and its dispensation are sought to be made simple and less costly. Attention has been drawn towards the state's obligation to provide to all individuals, avenues of education, self-development and well-being.

Drawbacks of UN charter

Still it must be admitted that the declaration suffers from a number of shortcomings which tend to make it ineffective; the most glaring of them is that it lacks any authority, which may enforce it. No nation can be compelled to actually abide by it. As a result, often the declaration becomes merely a pious sermon; there are countries, which pay lip service to the charter but violate it in practice. It should be mentioned however that a number of organisations keep watch on such violations and render useful service in this regard. Mention may be made of the "European Court of Human Rights". European nations keep it abreast of instances of violation. There are hundreds and thousands of such instances.

Compared to human rights violations in the so-called "civilised" countries, there are often greater offences committed in the international arena. Indeed the weaker nations have no means of compelling the powerful ones to abide by the human rights norms. Instances of excesses in Algeria, Palestine, Kosova, Bosnia and Iraq bear ample testimony to violations by the "civilised" world. The human rights violations in Palestine have been confirmed by the inspection teams of UNO.

Another drawback of the UNO declaration is that it does not clearly delineate the rights of an individual vis-a-vis the state. It is not clear where the boundary line is: which protects the individual and which the state may not encroach upon.

About freedom of religion also, the UN declaration is ambiguous. On the one hand it recognises the individual's right to embrace and practice any religion of his/her choice. On the other

hand, it chooses to ignore the basic fact that religion lays down a set of comprehensive obligations for individuals. Will the modern state permit an individual to discharge all these obligations? If the state is not willing to grant this freedom, (as indeed is the case) then "freedom of religion" becomes a mere hoax.

Secular Approach

The UN declaration implicitly assumes that man is completely autonomous and may legislate independently, ignoring the divine guidance. In popular terms, it is an irreligious or "secular" document. Naturally it tends to promote and encourage secular thinking and secular ideologies and supports their propagation. As a result, in the garb of "free thinking" and "liberty"; atheistic attitude is promoted. It denies divine guidance and life hereafter. Movements promoting immorality and permissiveness are being encouraged in the West and a particular "culture" is being sought to be imposed on the whole world. This trend is identified with progress and development. On the contrary, opportunities are denied for launching any worthwhile movement for promotion of religious and ethical values. A number of hurdles are placed in the way of such efforts. Media in particular, tries to mould the public opinion against them and presents them in an unfavourable light. Charges of backwardness and fundamentalism are labelled against religion and morality and as a last resort; they are curbed by force; notwithstanding the slogans of "free thinking" and "liberty".

No one can deny that human rights occupy the centre stage of public debate today and no doubt there are some positive efforts being made. But at the same time, it should be admitted that violations of human

rights are also rampant in today's world and often these violations go unchecked.

Role of Islam

Islam is the religion revealed by God to guide human beings. It enables them to achieve prosperity, well-being and success in this life as well as in the Hereafter. A basic aspect of this religion is that it is vocal champion of human rights and suggests effective means to counter their violations. This statement about Islam is not merely an emotive assertion; the reality is that Islam has dealt with the issue of human rights in the most rational and comprehensive manner. The Islamic approach has no parallel in other systems of thought and action. Indeed, the world has much to learn from Islam in this regard and it should be honest enough to recognise the debt it owes to Islam. One must admit that the modern man is swinging between extremes; because he has chosen to ignore the guidance provided by Islam. It is the duty of contemporary Islamic scholars to elaborate the Islamic conceptual framework. Its basic features are comprehensiveness, sublimity, simplicity, coherence and unity of thought and action. The modern world would then be in a better position to recognise the Islamic potential.

Chapter 2

Conceptual Basis of Human Rights

The popular myth would have us believe that mankind, for a long period in its initial history, remained in total darkness. Only gradually it emerged into light. Islam does not subscribe to this popular view.

According to Islam, the first human being was a direct recipient of the Creator's guidance and throughout human history, God continued to guide mankind through His Messengers. These Messengers taught man about his duties—both towards his Creator and towards his fellow beings. Thus the Divine law (revealed to the messengers) always had these two aspects – the etiquette of prayer and worship as well as a charter of human rights. The Messengers taught man to believe in one God and fought against ascribing partners to Him. At the same time, they warned people against any violation of human rights. They relentlessly worked for elimination of tyranny and exploitation from the human society and sought to establish justice on earth.

When the Messengers or their followers acquired state power, they used it to restore the rights of the weak and the deprived. This contribution of Messengers constitutes the very core of human history and lends sense and meaning to it. To appreciate the

Islamic concept of human rights one must understand the Islamic view of man. The conception of human rights is derived from this view and is a logical by product of it. An effort must therefore be made of delineate the salient features of the Islamic view of humanity.

1. Allah is the Creator and Master

The Islamic view about “man” is derived from the Islamic worldview; the fundamental tenet of which is that only Allah is the Creator and Master of this universe. Islam emphatically invites its audience to acknowledge this basic truth. What does such acknowledgement imply? It implies that everything in this universe belongs to God and He has no partners. The position of “man” is that he is the vicegerent of God on earth. (Chapter 2 of the Qur’an) The vicegerent is naturally expected to obey and implement the Master’s commands.

Another aspect of this basic truth is that “man” is being tested, in his capacity of vicegerency. Belief in this creed creates a revolution in the human society. The logical corollary of this Islamic conception is that no single individual, group or community may claim absolute ownership of any small or big commodity. Since Allah is the real master and owner, man can only be a custodian and therefore may use world’s provisions only in accordance with the directives given by the actual Master. Arbitrary use of resources at man’s disposal is therefore illegitimate. Every human being is being tested here in his capacity as vicegerent and custodian. The Qur’an has the following to state, in this regard;

وَهُوَ الَّذِي جَعَلَكُمْ خَلَائِفَ الْأَرْضِ وَرَفَعَ بَعْضَكُمْ فَوْقَ بَعْضٍ دَرَجَاتٍ لِّيَبْلُوَكُمْ فِي مَا آتَاكُمْ إِنَّ رَبَّكَ سَرِيعُ الْعِقَابِ وَإِنَّهُ لَغَفُورٌ رَحِيمٌ ﴿١٦٥﴾ (الانعام)

"It is He who has made you (i.e. the human beings) the inheritors of the earth. He has raised you in ranks, some above others, so that He may try you in the gifts He has given to you. Indeed thy Lord is quick in punishment; yet He is indeed Oft-forgiving, Most-merciful."

(Qur'an, ch. 6, v. 165)

This is an explicit statement to the effect that all the gifts of God (wealth, intellect and power among others) are given to man as a means of testing him. In particular, men are being judged in regard to their attitude towards the weak, the downtrodden and the deprived among them. God will, in the final accounting, judge the various individuals according to their conduct in the present life. The Qur'an states the same truth, in other words:

الَّذِي خَلَقَ الْمَوْتَ وَالْحَيَاةَ لِيَبْلُوَكُمْ أَيُّكُمْ أَحْسَنُ عَمَلًا ۚ وَهُوَ الْعَزِيزُ الْغَفُورُ ﴿١٦٦﴾ (البك)

"He (Allah) created death and life, that He may try which of you is best in deed. And (indeed) He is the Exalted in might, Oft-forgiving."

(The Qur'an, ch. 67, v.2)

2. Man's Existence is in Allah's Control Alone

God has a plan for this world. As part of this plan, human beings are born here according to Divine scheme and they dwell here till an appointed time. Then they die and their journey in the "life hereafter" commences. The Qur'an mentions the various stages of human journey in the following verse:

يَا أَيُّهَا النَّاسُ إِن كُنْتُمْ فِي رَيْبٍ مِّنَ الْبَعْثِ فَإِنَّا خَلَقْنَاكُمْ مِّن تَرَابٍ ثُمَّ مِّن نُّطْفَةٍ ثُمَّ مِّن عَلَقَةٍ ثُمَّ مِّن مُّضْغَةٍ مُّخَلَّقَةٍ وَغَيْرِ مُخَلَّقَةٍ لِّنُبَيِّنَ لَكُمْ ۖ وَنُقَرِّ فِي

الْأَرْحَامِ مَا نَشَاءُ إِلَى آجِلٍ مُّسَمًّى ثُمَّ نُخْرِجُكُمْ طِفْلًا ثُمَّ لِتَبْلُغُوا أَشَدَّكُمْ
وَمِنْكُمْ مَنْ يُتَوَفَّى وَمِنْكُمْ مَنْ يُرَدُّ إِلَى أَرْدَلِ الْعُتْرِ لِكَيْلَا يَعْلَمَ مِنْ بَعْدِ
عِلْمٍ شَيْئًا (الحج: ٥)

"O mankind! If you have a doubt about the resurrection, (consider) that We created you out of dust, then out of sperm, then out of a leech like clot, then out of a morsel of flesh, partly formed and partly unformed, in order that we may manifest (Our power and wisdom) to you. And we cause whom We will, to rest in the wombs for an appointed term' then we bring you out as babes. Then we (foster you) that you may reach your age of full strength. And (then) some of you are called to die, and some others are sent back to the feeblest old age, so that they know nothing after having known (much)". (The Qur'an, ch. 22, V.5)

The same truth is brought to light at another place:
هُوَ الَّذِي خَلَقَكُمْ مِنْ تُرَابٍ ثُمَّ مِنْ نُطْفَةٍ ثُمَّ مِنْ عَلَقَةٍ ثُمَّ يُخْرِجُكُمْ طِفْلًا ثُمَّ
لِتَبْلُغُوا أَشَدَّكُمْ ثُمَّ لِيَكَوُنُوا شُيُوخًا وَمِنْكُمْ مَنْ يُتَوَفَّى مِنْ قَبْلُ وَلِتَبْلُغُوا
أَجَلًا مُّسَمًّى وَلَعَلَّكُمْ تَعْقِلُونَ ٥٤ (المؤمن)

"It is He who has created you from dust, then from a sperm drop, then from a leech like clot; then does He get you out (into the light) as a child. He, then, lets you (grow and) reach your age of full strength; then lets you become old. And among you, there are some who die before – and He lets you reach a term appointed. This is in order that you may understand."

(The Qur'an, ch.40, v.67)

Allah's plan about human life and death is mentioned in the above verses. The exact duration of each man's worldly life is fixed by Allah's plan. A person may die in child age; another may reach adulthood and then die. Yet another may die at a ripe age. The final stage of Allah's plan will unfold in the

“life hereafter”. Life – whether brief or prolonged – is a gift of God. Right to life is therefore an inherent right of each individual. To deprive unjustly, a human being of his life, is therefore a very grave crime according to the Qur’an.

3. Equal Access to the Resources of Nature

The universe is very suitable abode for humans; it has been so created by Allah. All human requirements are provided for and in plenty. The land and the sea have been made subservient to mankind and the earth is the most suitable dwelling place for men. The various forces of nature – the wind, the sea, the sun, the moon, the day and the night are all serving the human beings, The Qur’an says:

اللَّهُ الَّذِي خَلَقَ السَّمَوَاتِ وَالْأَرْضَ وَأَنْزَلَ مِنَ السَّمَاءِ مَاءً فَأَخْرَجَ بِهِ مِنَ الثَّمَرَاتِ رِزْقًا لَكُمْ وَسَخَّرَ لَكُمُ الْفُلْكَ لِتَجْرِيَ فِي الْبَحْرِ بِأَمْرِهِ وَسَخَّرَ لَكُمُ الْأَنْهَارَ ۝ وَسَخَّرَ لَكُمُ الشَّمْسَ وَالْقَمَرَ دَائِبَيْنِ وَسَخَّرَ لَكُمُ اللَّيْلَ وَالنَّهَارَ ۝ وَاتَّكُم مِّن كُلِّ مَا سَأَلْتُمُوهُ وَإِن تَعُدُّوا نِعْمَتَ اللَّهِ لَا تَحْصُوهَا إِن الْإِنْسَانَ لَكَفُورٌ ۝ (ابراهيم)

“It is Allah Who has created the heavens and the earth; and He sends down rain from the skies, and with it brings out fruit to feed you. It is He Who has made the ships subject to you, that you may sail through the sea by His command. And He has made rivers subject to you the sun and the moon both diligently pursuing their courses. And He has made subject to you, the night and the day. And He gives you all that you ask for. If you were to count the favours of Allah, never will you be able to number them. Indeed, man is given to injustice and ingratitude.”

(The Qur’an, ch.14, v.32-34)

At another place, the Qur'an states the same truth, in other words:

أَلَمْ تَرَ أَنَّ اللَّهَ سَخَّرَ لَكُمْ مَّا فِي السَّمٰوٰتِ وَمَا فِي الْأَرْضِ وَأَسْبَغَ عَلَيْكُمْ
نِعْمَهُ ظَاهِرَةً وَبَاطِنَةً وَمِنَ النَّاسِ مَن يُجَادِلُ فِي اللَّهِ بِغَيْرِ عِلْمٍ وَلَا هُدًى وَلَا
كِتٰبٍ مُّنبِئٍ ﴿٢٠﴾ (لقنن)

"Do you not see that Allah has subjected to your (use) all things in the heavens and on earth? And He has made His bounties flow to you in exceeding measure; both seen and unseen. Yet, there are among men those who dispute about Allah; without knowledge and without guidance and without a book to enlighten them." (The Qur'an, ch.31, v.20)

The Qur'an is explicit on this point that the resources of the universe, available to man, have been given to him by Allah alone. He has created them for the whole of humanity. No one therefore has the authority to deprive any person from access to these gifts of God. If such an attempt is made, it would amount to transgression and injustice.

4. Human Beings are Slaves of God Alone

The Islamic view is that man is slave of Allah and of no one else. Hence he must worship Him alone and render unconditional obedience to His commands. As a matter of fact, man is not the slave of any other authority. Hence it is a basic human right of every one to be actually free from slavery. No one may force free human beings into bondage or slavery. History tells us the instance of Pharaoh (of Egypt) who had enslaved "children of Israel." The Prophet Moses (A.S) raised his voice against this tyrannical slavery imposed on the Israelites. Prophet Moses (A.S) categorically announced that he was appointed by Allah as His

Messenger and in that capacity he invited Pharaoh (as well as others) to worship Allah alone. As part of his mission, Prophet Moses (A.S) also called upon Pharaoh to stop persecution of Israelites and to liberate them. Then they might migrate from Egypt to a land chosen for them (by Allah). In response to this demand of the Prophet Moses (A.S), Pharaoh, at first, tried to divert attention from the real issue. He mentioned the "favours" bestowed by him on Moses, earlier. To this irrelevant response, the Prophet Moses (A.S) replied as follows:

وَلَيْكَ دُعَاءُ مِثْلُهَا عَلَى أَنْ عَبَّدْتَ بَنِي إِسْرَءِيلَ ﴿٢٢﴾
(الشعراء)

"As for the favour, with which you reproach me – that (in essence was) that you had enslaved the children of Israel.

(The Qur'an, ch.26, v.22)

In any case, Pharaoh's "favour" (if any) was for an individual namely Moses. That certainly could not be a justification for enslaving the whole community of the Israelites. They as human beings were entitled to their freedom. Moses, accordingly, rejected Pharaoh's alibi and pointed out that by Allah's mercy, he (Moses) had escaped the organised genocide unleashed by Pharaoh.

Eventually Pharaoh contemptuously rejected the Prophet Moses (A.S)' message and his demand for liberation of the children of Israel. He insisted that Moses and Haroon were from a "slave community". How could they be Messengers of God!

This arrogance of Pharaoh prevented him from recognising the truth. Ultimately he and his followers paid the penalty of their arrogance by getting drowned in the river. The Qur'an points to this sequence of events:

فَقَالُوا أَنُؤْمِنُ بِبَشَرَيْنِ مِثْلِنَا وَقَوْمُهُمَا لَنَا عِبَدُونَ ﴿٤٧﴾ فَكَذَّبُوهُمَا فَكَانُوا مِنَ
الْمُهْلَكِينَ ﴿٤٨﴾

(المؤمنون)

"They (Pharaoh and his associates) said: 'Shall we believe in two men like ourselves? And their people are subject to us! So, they rejected them (i.e. the Prophets Moses and Haroon). Consequently they became of those who were destroyed.'"

(The Qur'an, ch. 23, vs.47, 48)

The divine scheme does not allow permanent rule of Pharaohs on this earth. They are made to realise that political power is not meant to be a tool for enslaving people. Various groups and sections should be treated justly and their rights respected. The state is supposed to be the guardian of human rights and not a violator.

5. No Justification for Priesthood

Islam permits neither political tyranny nor priesthood, which is a means of enslavement of people in the religious garb. Islam maintains that by following the guidance of Messengers of God, a human being may establish direct relationship with God. He may pray to his Creator directly, recite His name and offer sacrifices as part of worship. He may turn to him to overcome hardships and miseries. The Qur'an says:

وَإِذَا سَأَلَكَ عِبَادِي عَنِّي فَإِنِّي قَرِيبٌ أُجِيبُ دَعْوَةَ الدَّاعِ إِذَا دَعَانِ
فَلْيَسْتَجِيبُوا لِي وَلْيُؤْمِنُوا بِلَعَلَّهُمْ يَرْشُدُونَ ﴿١٨٦﴾

(البقرة)

"(God says) when My servants ask thee concerning Me (then tell them that) I am Indeed close (to them). Irespond to the prayer of every supplicant when he calls on Me. (Hence) let them also, with a will, listen to My call and believe in Me; that they may walk in the right way."

(The Qur'an, ch.2, v.186)

To establish relationship with God, there is no need of any intermediary whether it be an imaginary god or goddess or a pope, pundit, purohit or priest.

The Qur'an states:

أَلَا لِلَّهِ الدِّينُ الْخَالِصُ وَالَّذِينَ اتَّخَذُوا مِنْ دُونِهِ أَوْلِيَاءَ مَا نَعْبُدُهُمْ إِلَّا لِيُقَرِّبُونَا إِلَى اللَّهِ زُلْفَىٰ إِنَّ اللَّهَ يَحْكُمُ بَيْنَهُمْ فِي مَا هُمْ فِيهِ يَخْتَلِفُونَ إِنَّ اللَّهَ لَا يَهْدِي مَنْ هُوَ كَذِبٌ كَفَّارٌ ﴿٣٩﴾
(الزمر)

"Is it not to Allah alone that sincere devotion is due? But those who take for protectors other than Allah say that "we only serve them in order that they may bring us nearer to Allah." Truly Allah will judge between them in that wherein they differ. But Allah guides not such as are false and ungrateful."

(The Qur'an, ch. 39, v.3)

Evidently, accordingly to the Qur'an human beings are not to be enslaved by political or religious means. It is their basic human right to be free and independent and not to be a captive of another individual or institution.

6. Human Dignity

Allah has granted man an elevated status as compared to many other creations.

وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ وَحَمَلْنَاهُمْ فِي الْوَيْ وَالْبَحْرِ وَرَزَقْنَاهُمْ مِنَ الْقَتِيبِ
وَفَضَّلْنَاهُمْ عَلَىٰ كَثِيرٍ مِّنْ خَلْقِنَا تَفْضِيلًا ﴿٧٠﴾
(الاسراء)

"We have honoured the sons of Adam; provided them with transport on land and sea; given them for sustenance things good and pure; and conferred on them special favour, above a great part of our creation."

(The Qur'an, ch.17, v.70)

This elevated status of man has been described by the Qur'an. Man is the best creature in his bodily structure, figure, stature and capabilities. The Qur'an says:

(التين) لَقَدْ خَلَقْنَا الْإِنْسَانَ فِي أَحْسَنِ تَقْوِيمٍ ۝

"We have indeed created man in the best of moulds."
(The Qur'an, ch.95, v.4)

(التغابن) وَصَوَّرَكُمْ فَأَحْسَنَ صُوَرَكُمْ ۝

and He has given you shape and made your shapes beautiful."
(The Qur'an, ch.64, v.3)

Also

(الانفطار) الَّذِي خَلَقَكَ فَسَوَّاكَ فَعَدَلَكَ ۝ فِي أَيِّ صُورَةٍ مَا شَاءَ رَكَّبَكَ ۝

"He created thee, fashioned thee in due proportion and gave thee a just bias. In whatever form He wills, does He put thee together." (The Qur'an, ch.82, v.7, 8)

Another remarkable human trait is the capability of self expression. Apparently no other creatures on earth share this trait.

(الرحمن) خَلَقَ الْإِنْسَانَ ۝ عَلَّمَهُ الْبَيَانَ ۝

"He has created man and taught him intelligent speech."
(The Qur'an, ch.55, v.3,4)

(العلق) الَّذِي عَلَّمَ بِالْقَلَمِ ۝

"He taught man (the use of) Pen" (The Qur'an, ch.96, v.4)

Allah has bestowed on man extraordinary mental capabilities:

(السجدة) وَجَعَلَ لَكُمُ السَّمْعَ وَالْأَبْصَارَ وَالْأَفْئِدَةَ ۚ قَلِيلًا مَّا تَشْكُرُونَ ۝

"He gave you the faculties of hearing and sight and of understanding. But you give little thanks."
(The Qur'an, ch.32, v.9)

وَاللَّهُ أَخْرَجَكُمْ مِنْ بُطُونِ أُمَّهَاتِكُمْ لَا تَعْلَمُونَ شَيْئًا ۚ وَجَعَلَ لَكُمُ السَّمْعَ

وَالْأَبْصَارَ وَالْأَفْئِدَةَ لَعَلَّكُمْ تَشْكُرُونَ ۝

"It is He who brought you forth from the wombs of your mother when you knew nothing; and He gave you hearing and sight and intelligence; that you may give thanks (to Allah)."
(The Qur'an, ch. 16, v.78)

By intellect, man draws inferences from events and experiments with new ideas. He is able to explore fresh avenues and utilise natural resources. In addition, through the exercise of reason and intellect, man makes moral judgment and is able to act as a responsible being.

The above are certain aspects of human dignity. Human beings therefore deserve dignified treatment; anything that degrades humanity is abhorred by Islam. Hunger, misery and hardship usually create degrading circumstances. The consequences of such extreme conditions are not compatible with the concept of human dignity. To deprive people of knowledge also amounts to robbing them of their humanity; Islam, on the contrary, encourages full development of all aspects of the human personality.

7. Allah is the Supreme Ruler

Human beings are social creatures by nature and they always prefer to live in a society. Human needs also lead to this tendency to socialise. In the social structure, each individual has certain duties as well as rights. A civilized society is formed on the basis of a coherent conception of these two aspects. The state must play its role to safeguard the stability of this combination.

However the cardinal question is: "Who is the proper authority to assign rights and duties to people?" Does this authority reside with the state or the "traditions"? The Islamic position is that only Allah is the legitimate authority to assign duties and rights. The individuals, the social structures and the state should all obey Allah's commands. Man – made law cannot

be elevated to a sacred status. It should always be subject to the Divine commands.

The Arabs had elevated their arbitrary notions of "lawful" and "unlawful" to a sacred status. The Qur'an strongly criticised this trend and stated that only Allah had the authority to legislate about "lawful" and "unlawful" actions. To claim divine sanction for human ideas, where actually no such sanction existed, was a falsehood of the most blatant kind.

The Qur'an says:

وَلَا تَقُولُوا لِمَا تَصِفُ أَلْسِنَتُكُمُ الْكَذِبَ هَذَا حَلَلٌ وَهَذَا حَرَامٌ لِّتَفْتَرُوا عَلَى

اللَّهِ الْكَذِبَ إِنَّ الَّذِينَ يَفْتَرُونَ عَلَى اللَّهِ الْكَذِبَ لَا يَفْلِحُونَ ﴿١١٦﴾ (النحل)

"But say not – for any falsehood that your tongues may put forth – "this is lawful and this is forbidden, "so as to ascribe false things to Allah. Indeed those who ascribe false things to Allah will never prosper."

(Ch.16, v. 116)

Jews and Christians had given absolute authority to their religious scholars to legislate about "lawful and forbidden actions". The Qur'an condemned this attitude and stated that only Allah is the acceptable authority to prescribe the "law". No scholar, jurist or priest has the authority to legislate for human beings:

اتَّخَذُوا أَحْبَارَهُمْ وَرُهْبَانَهُمْ أَرْبَابًا مِنْ دُونِ اللَّهِ وَالْمَسِيحَ ابْنَ مَرْيَمَ وَمَا

أَمْرُهُمْ إِلَّا لِيَعْبُدُوا إِلَهًا وَاحِدًا لَا إِلَهَ إِلَّا هُوَ سُجَّدًا عَنَّا يُشْرِكُونَ ﴿٣١﴾ (التوبة)

"They take their priests and their anchorites to be their Lords besides Allah. And (they take as their Lord) Christ the son of Mary. Yet they had been commanded to worship but one God. There is no God but He. (Praise and Glory (be) to Him. (Far is He) from having the partners they associate (with Him))."

(The Qur'an, ch.9, v.31)

The “people of the book” (i.e. the Jews) had received the book “Torah” revealed by God. They were supposed to be guided by it. The first few generations of People of the Book, indeed followed the Book and moulded their life according to its teachings.

Later generations deviated from the righteous path and ignored the revealed book, to follow their whims. This was the beginning of their downfall.

إِنَّا أَنْزَلْنَا التَّوْرَةَ فِيهَا هُدًى وَنُورٌ يَحْكُمُ بِهَا الْعِبَادُ الَّذِينَ آسَلَمُوا لِلَّهِ
هَادُونَ وَالرَّبَّادُونَ وَالْأَحْبَارُ مِمَّا اسْتَحْفَظُوا مِنْ كِتَابِ اللَّهِ وَكَانُوا عَلَيْهِ
شُهَدَاءَ فَلَا تَخْشَوُا النَّاسَ وَاحْشَوْنِي وَلَا تَشْتَرُوا بِآيَاتِي ثَمَنًا قَلِيلًا وَمَنْ لَمْ
يَحْكَمْ بِمَا أَنْزَلَ اللَّهُ فَأُولَئِكَ هُمُ الْكَافِرُونَ ﴿٥٠﴾

(البقرة)

“We revealed the Torah (to Moses): therein was guidance and light. By its standard have been judged the Jews, by the prophets (pbuh), who bowed to Allah’s will. Similarly the Rabbis and the Doctors of Law judged them. For, to them was entrusted the protection of Allah’s Book: and they were witnesses thereto. Therefore, fear not men, but fear Me; and sell not my Signs for a miserable price. If any do fail to judge by what Allah has revealed, they are (Indeed) unbelievers.”

(The Qur’an, ch.5, v.44)

These clear directions put an end to unrestricted authority of any individual or institution. All authority is to be exercised within the boundaries set by Allah’s law. Allah did not delegate to anyone the legislative power, to delineate the rights and duties of human beings. In this regard, everyone must turn to Allah’s guidance and abide by it.

8. Supplementary Legislation

Within the boundaries of the revealed law, human beings are permitted to legislate on secondary matters.

In Islamic terminology, the process is called “ijtihād” and requires a deep and authentic understanding of the “law”. The sphere of ijtihad is very wide and it is a necessary mechanism to ensure the proper evolution of the legal framework with changing times.

وَإِذَا جَاءَهُمْ أَمْرٌ مِنَ الْأَمْنِ أَوْ الْخَوْفِ أَذَاعُوا بِهِ وَلَوْ رَدُّوهُ إِلَى الرَّسُولِ وَإِلَى أُولِي الْأَمْرِ مِنْهُمْ لَعَلَّهُ الَّذِينَ يَسْتَنْبِطُونَهُ مِنْهُمْ وَلَوْ لَا فَضْلُ اللَّهِ عَلَيْكُمْ وَرَحْمَتُهُ لَاتَّبَعْتُمُ الشَّيْطَانَ إِلَّا قَلِيلًا ﴿٨٣﴾
(النساء)

“When there comes to them some matter touching (public) safety or fear, they divulge it. If they had only referred it to the messenger or to those charged with authority among them, the proper investigators would have known (the truth) from them, Were it not for the Grace and Mercy of Allah unto you, all but a few of you would have followed Satan.” (The Qur’an ch.4, v.83)

The verse teaches that instead of indulging in speculation or rumour mongering, people should communicate any “news” to Prophet (pbuh) and to the proper authorities. After the Prophet’s demise his tradition is the source of guidance and the authorities of the Islamic state should be informed of any important development. The authorities should in consultation with scholars, chalk out a proper response and keep the people informed.¹ In all critical situations, people must exhibit this mature behaviour.

9. Law and Morality

Ethical sensitivity is a fundamental human trait. Human beings appreciate good moral conduct while bad behaviour is universally condemned by them. This tendency is universal and shared by the whole of humanity. If the moral sense is alive and strong, people

¹ See for details: Jassas, Ahkaam al Qur’an: Vol.2, pp. 269-272

show a high standard of civilized behaviour and consequently, conflict and disharmony disappear from the society. Islam trains this primary moral sense to make it alive and vibrant. It does not merely provide a list of do's and don'ts. Rather it bases its legal commands on a strong moral sense: A number of legal obligations are presented as desirable ethical values and human beings are motivated to imbibe them. Reward is promised for good behaviour and warning of grave consequences has been given for bad behaviour. Similarly, Islam seeks to consolidate people's conscience to develop in them a keen sense of human rights. It creates an appropriate social climate in which rights are implicitly respected. Murder, theft, adultery, slander, injustice and oppression are not merely crimes; they are also major sins and invite Allah's punishment. The desirable traits are not only inherently humane; they also result in reward from the Creator. Thus human rights get elevated to a higher status than that of a mere legal obligation.¹

10. Accountability before God

Islam gives moral and legal sanctions to human rights and motivates people to honour them. Human rights flow from the revealed law and exemplify the guidance given by the creator. Hence they should be respected under all circumstances. A person honouring them would deserve Allah's reward in the life hereafter while a violator will face His wrath and deserve severe punishment. The pious are those who respect the "limits" prescribed by Allah and do not

¹ The tasks of IJTIHAAD (creative interpretation) and application are regulated by rigorous norms. One may refer to authoritative books on these topics.

transgress them. The Qur'an illustrates this principle in the context of the law relating to inheritance:

تِلْكَ حُدُودُ اللَّهِ وَمَنْ يُطِيعِ اللَّهَ وَرَسُولَهُ يُدْخِلْهُ جَنَّاتٍ تَجْرِي مِنْ تَحْتِهَا الْأَنْهَارُ خَالِدِينَ فِيهَا وَذَلِكَ الْفَوْزُ الْعَظِيمُ ۝ وَمَنْ يَعْصِ اللَّهَ وَرَسُولَهُ وَيَتَعَدَّ حُدُودَهُ يُدْخِلْهُ نَارًا خَالِدًا فِيهَا وَلَهُ عَذَابٌ مُهِينٌ ۝
(النساء)

"These are limits set by Allah: those who obey Allah and His Messenger will be admitted to gardens, with rivers flowing beneath; to abide therein forever. And that will be the supreme achievement. But those who disobey Allah and His Messenger and transgress His limits will be admitted to a fire, to abide therein; and they shall have a humiliating punishment."

(The Qur'an, ch.4, v.13, 14)

The Qur'an mentions here the link between the rights of the legal heirs and the accountability in the hereafter. A sense of accountability leads to protection of these rights and checks their violation. Similarly, according to the Qur'an, killing a person (without due justification) is not only a legal crime; it is also a grave sin. The Qur'an counts it as one among the three "greatest" sins:

وَمَنْ يَفْعَلْ ذَلِكَ يَلْقَ أَكْثَرَ ۝ يُضْعَفُ لَهُ الْعَذَابُ يَوْمَ الْقِيَمَةِ وَيَخْلُدُ فِيهِ مُهَانًا ۝ إِلَّا مَنْ تَابَ وَآمَنَ وَعَمِلَ عَمَلًا صَالِحًا فَأُولَئِكَ يُبَدِّلُ اللَّهُ سَيِّئَاتِهِمْ حَسَنَاتٍ وَكَانَ اللَّهُ غَفُورًا رَحِيمًا ۝
(الفرقان)

"(Believers are) those who invoke not, with Allah, any other God, nor slay such life as Allah has made sacred, except for just cause, nor (do they) commit fornication. And anyone that does (these acts) will meet punishment. His chastisement on the Day of Judgment will be doubled and he will dwell therein in ignominy. (This will happen) unless he repents, believes and does righteous deeds; for (then) Allah will change the evil of such persons into good. And Allah is Oft Forgiving, Most Merciful." (The Qur'an, ch. 25, v.68-70)

Female infanticide has been explicitly condemned by the Qur'an:

وَإِذَا الْمَوْءُدَةُ سُئِلَتْ بِأَيِّ ذَنْبٍ قُتِلَتْ ۖ (التكوير)

"When (on the day of judgement), the female (infant) which had been buried alive will be questioned; for what crime she was killed," (The Qur'an, ch.81, v8,9)

Those who unlawfully grab orphan's wealth are warned:

إِنَّ الَّذِينَ يَأْكُلُونَ أَمْوَالَ الْيَتَامَىٰ ظُلْمًا إِنَّمَا يَأْكُلُونَ فِي بُطُونِهِمْ نَارًا ۖ
وَسَيَصْلَوْنَ سَعِيرًا ۖ (النساء)

"Those who unjustly eat up the property of orphans, eat up a fire into their own bodies. They will soon be enduring a blazing fire." (The Qur'an, 4, v.10)

The Qur'an exhorts people to act responsibly, with respect to "trusts" placed under them:

إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا ۖ وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ ۚ إِنَّ اللَّهَ يَعْظُمُكُمْ بِهِ ۖ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا ۖ (النساء)

"Allah commands you to render back your trust to those whom they are due; and when you judge between people, then judge with justices. Verily how excellent is the teaching, which He gives you. For Allah hears and sees all." (The Qur'an, ch.4, v.58)

Indeed sense of accountability before God is the firm shield against violation of human rights.

Chapter 3

Islamic Perspective on Individual Rights

Right to Life

The most fundamental of human rights is obviously the right to life. If this right is denied to people, then all other rights are automatically nullified. Hence all democratic systems have invariably recognised the right to life as primary and basic. However, the right to life is not to be regarded as absolute nor is it unconditional; in some circumstances, demands of justice may override it.

Islam, in its discourse, gives supreme importance to right to life, strongly opposes its violation and accords it due legal protection. Islam declares that this right should not be snatched away unless truth and fair play demand otherwise. Every human being intrinsically enjoys this right by birth, since life is a gift from the Creator. He is its Real Master and no one has the authority to terminate it. The individual himself is also not permitted to do so; that is why suicide is prohibited by Islam.

Islam says about believers that they do not kill any human being unjustly.

وَالَّذِينَ لَا يَدْعُونَ مَعَ اللَّهِ إِلَهًا آخَرَ وَلَا يَقْتُلُونَ النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا
بِالْحَقِّ وَلَا يَزْنُونَ وَمَنْ يَفْعَلْ ذَلِكَ يَلْقَ أَثَامًا

(الفرقان)

"Believers are those, who invoke not, with Allah, any other god. Nor do they slay such life as Allah has made sacred, except for just cause." (Qur'ān, 25:68)

Abdullah bin Amr says that the Prophet (peace and blessings of Allah be to him) said,

الكبائر: الاشراك بالله وعقوق الوالدين وقتل النفس واليمين الغموس-

*"Major sins are these: to associate partners with Allah, disobedience of parents, slaying a human being without just cause and false evidence."*¹

This admonition of the Prophet (pbuh) implicitly warns the believers to refrain from the heinous act of unjust killing of human beings.

Islam has identified the possible situations in which this right loses its sanctity. If an individual becomes an intolerable menace for the society, he may not expect to retain his right to life. The Qur'ān says,

مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا وَمَنْ أَحْيَاهَا فَكَأَنَّمَا أَحْيَا النَّاسَ جَمِيعًا
(المائدة)

"If anyone killed a person – unless it be for murder or for spreading mischief in the land – it would be as if he slew the whole of mankind. And if anyone saved the life, it would be as if he saved the whole of mankind."

(Qur'ān 5:32)

The above principle was among the Divine teachings given to the community of Israelites. The Islamic law reiterates the same principle. If a person kills another without just cause or spreads disorder in the land, he loses the sanctity of his own life. His continued presence becomes intolerable for the health of the society. To remove him in order to restore peace

¹ Bukhari, Kitab al-Iman wa Al-Nuzoor

and tranquillity becomes supreme duty of the state. Such action of the state is unexceptionable.

A hadith quoted by Imam Muslim identifies three crimes which would invite capital punishment: apostasy, killing without just cause and illicit sex by a married person.¹

The reason given by Islam for this harsh penalty is the obvious severity of the crime. To kill an individual without just cause opens the doors of mass killing. On the contrary, the act of saving an innocent person is a life saver for humanity as a whole. Harsh penalty underlines the sanctity accorded by Islam to human life. Among Adam's sons, one brother unjustly killed another. He initiated this evil tradition of unjust killing. Hence in any unjust killing thereafter in human history, the first killer would also share part of the blame; it would be included in his list of sins. Abdullah bin Masood narrates that the Prophet (pbuh) said:

لا تقتل نفس ظلما الا كان على ابن آدم الاول كفل من دمها، لأنه اول من سن القتل-

*"For anyone killed unjustly, a part of the blame will be shared by the killer son of Adam, since he was the first person to initiate this evil."*²

Islam, in the context of unjust killing, has given a number of injunctions:

1. The killer is to be given death penalty. Others with such tendencies would then be discouraged. The Qur'ān says:

وَلَكُمْ فِي الْقِصَاصِ حَيَوةٌ يَا أُولِي الْأَلْبَابِ لَعَلَّكُمْ تَتَّقُونَ ﴿٥﴾ (البقرة)

¹ Muslim, Kitab al-Qasamah

² Bukhari, Kitab al-Ambiya, Muslim, Kitab al-Qasamah.

"In the law of Qisas (death penalty for the killer), there is life for you; O men of understanding. This injunction is given so that you may restrain yourself."

(Qur'ān 2:179)

Apparently, death penalty means that one more human life is to be lost. But sober reflection shows that this apparent loss actually guarantees the life of the whole community. If seriously implemented, this law will serve as a powerful deterrent. Unjust killings would be reduced, and mankind as a whole would be more secure.

2. If the survivors of the victim agree then they may accept blood money instead of death penalty for the killer. The blood money may also be waived off by them partially or fully. To grant pardon to the killer is counted as an act of virtue and is highly commended.¹

3. The authority to demand full punishment or to forgive the killer or to accept blood money rests entirely with the family of the victim. The state has no role in it. The state will help the victim's family to claim and recover its legal due. However, they (the victim's family) would be restrained by the state if they seek to inflict inhuman torture on the killer or if they resort to other excesses, or target innocent family members of the killer.

The Qur'ān says:

وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ ۚ وَمَنْ قُتِلَ مَظْلُومًا فَقَدْ جَعَلْنَا
لِرَبِّهِ سُلْطٰنًا فَلَا يَسْرِفُ فِي الْقَتْلِ ۚ إِنَّهُ كَانَ مَنصُورًا ﴿١٧٨﴾ (بنی اسرائیل)

"Do not take the life – which Allah has made sacred – except for just cause. And if anyone is slain wrongfully, We have given his heir authority (to demand Qisas or to forgive); but let him not exceed bonds in the matter

¹ See for details Qur'an 2:178

of delivering the penalty. He will be helped (by the state)."
(*Al-Qur'ān* 17:33)

Right to Equality

Equality is an important fundamental right and serves as the foundation for other rights. Reference may be made in this context, to "Universal Declaration of Human Rights". It is stated therein that human rights included in the declaration would be available equally to everyone irrespective of race, complexion, sex, language, religion, political affiliation, socioeconomic status or place of birth.

The same principle is stated in "International Covenant on Civil and Political Rights". States all over the world are also expected to ensure that rights of citizens are not violated and their benefits are not withheld from anyone.¹

Islam gives equality an even higher status than commonly accepted today. Unity of mankind and equality are among its basic tenets. Islam presented them, when the world was unfamiliar with the bare notion of equality itself.

As a matter of fact, great diversity exists among human beings as reflected by differences in race, complexion, language, ethnicity, sex, status and occupation. These natural differences were wrongly regarded by some as crucial and were even made the basis for superiority and inferiority. Sometimes whites were regarded as superior to blacks or particular races were accorded higher status. Distinctions of high and low were made on the basis of language spoken. Difference of sex was often made the ground for the controversial male superiority. In spite of great

¹ See: Human Rights International Challenges Vol.1, pp.79-84

propaganda of equality, such notions continue to persist in today's world as well.

Islam has however categorically prohibited discrimination, on the basis of such natural diversities. It maintains that such natural differences are merely for mutual acquaintance among people. To get acquainted with a person, one needs to know his native place and the language spoken by him. Such mutual introduction serves the purpose of better acquaintance. If human beings were identical in their features and attributes, recognition of them as distinct individuals would have been impossible. Such diversity is a sign of Divine wisdom and the human unity is maintained in spite of such differences. It need not lead to disputes or discord. The Qur'an says:

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ
لِتَعَارَفُوا ۚ إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاهُ ۚ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ ﴿١٣﴾ (الحجرات)

"O mankind! We created you from a single pair of a male and a female, and made you into nations and tribes that you may know each other. Verily, the most honoured of you in the sight of Allah is he who is the most righteous of you. And Allah has full knowledge and is well acquainted with all things."

(Al Qur'an 49:13)

After the decisive victory over Makkah, the Prophet (pbuh) delivered an important sermon to the audience. He announced the abolition of all notions of tribal or racial superiority. He asserted equal status of all children of Adam. Only piety and nobility of character may bestow honour on a person; he would deserve the greater respect given to him. The Prophet (pbuh) said:

ياايها الناس، الا ان ربكم واحد و ان اباكم واحد، الا لا فضل لعربي
على عجمي ولا لعجمي على عربي ولا لأحمر على اسود ولا لأسود على
احمر الا بالتقوى-

*"O people! Indeed your Lord is one and your ancestor is one. There is no superiority of an Arab over a non-Arab nor of a non Arab over an Arab. No white is superior to black nor a black superior to a white. However the pious among you deserve greater respect."*¹

This was an explicit declaration of human equality, including in its scope people of all races and regions. There is no superiority on racial or regional basis. Only the pious are more honoured and deserve greater respect.²

Improper discrimination among people and unjust treatment towards them would invite Divine chastisement. The wrongdoers, under Allah's scheme, are eliminated from the Earth. Pharaoh and his tribe were racial chauvinists with superiority complex; they were not willing to treat Israelites as their equal. Indeed, Israelites had been enslaved by them and coerced into submission. By ethnic cleansing, their numerical strength was being systematically reduced in order to weaken them. They were not allowed to develop and prosper. This was a very serious crime against humanity. The Qur'ān has condemned this grave injustice. It has described the Divine scheme through which Allah liberated the Israelites, and Pharaoh and his supporters met their doom. The Qur'ān says:

¹ Musnad Ahmad: 5/411

² See for details the booklet of the author entitled "Islam and Unity of Mankind"

إِنَّ فِرْعَوْنَ عَلَا فِي الْأَرْضِ وَجَعَلَ أَهْلَهَا شِيَعًا يَسْتَضِعُّ طَائِفَةً مِنْهُمْ يَدْ
فَعُ أَبْنَاءَهُمْ وَيَسْتَحْيِي نِسَاءَهُمْ إِنَّهُ كَانَ مِنَ الْمُفْسِدِينَ ﴿٥﴾ وَنُرِيدُ أَنْ نَمُنَّ عَلَى
الَّذِينَ اسْتَضَعُّوا فِي الْأَرْضِ وَنَجْعَلَهُمْ أَئِمَّةً وَنَجْعَلَهُمُ الْوَارِثِينَ ﴿٦﴾ وَنُفَصِّلُ
لَهُمْ فِي الْأَرْضِ فِرْعَوْنَ وَهَامَانَ وَجُنُودَهُمَا مِنْهُمْ مَا كَانُوا يَحْذَرُونَ ﴿٧﴾ (النجم)

"Indeed, Pharaoh elated himself in the land and divided its people into sections. He depressed a group among them, killing their sons and keeping the females alive. He was indeed an evildoer. And We wished to be gracious to those, who were being depressed in the land. We wished to make them leaders and heirs, to establish a firm place for them in the land. We wished to show Pharaoh, Haman and their supporters, the eventuality that they were dreading from the Israelites."

(Al Qur'an 28:4-6)

This is reiteration of the principle that the state power may not be used to subjugate a section of the people. All individuals and communities are to enjoy basic rights, which may not be snatched away from them on any pretext. Divine law does not permit oppression and coercion against any group of people.

Establishment of Justice

A natural corollary of equality among human beings is that just treatment should be meted out to everyone and none is to be subjected to injustice. Indeed, justice is the cornerstone of Islamic teachings. Islam has laid emphasis on establishment of justice and has sought to make it a living reality. The Islamic doctrine holds that the universe itself is based on balance and justice; hence human life may receive its proper orientation, only through justice. Human conduct must conform to this principle, since injustice would inevitably lead towards social discord and

conflict while peace will remain elusive from society. Human activities guided by the norm of justice are expected to lead to harmony, whose highest manifestation is visible in the system of the universe itself. The Qur'ān says:

الشَّمْسُ وَالْقَمَرُ بِحُسْبَانٍ ۝ وَالنَّجْمُ وَالشَّجَرُ يَسْجُدَانِ ۝ وَالسَّمَاءَ رَفَعَهَا
وَوَضَعَ الْمِيزَانَ ۝ أَلَّا تَطْغَوْا فِي الْمِيزَانِ ۝ وَأَقِيمُوا الْوَزْنَ بِالْقِسْطِ وَلَا
تُخْسِرُوا الْمِيزَانَ ۝ (الرحمن)

"The sun and the moon follow courses exactly computed. And the herbs and trees both bow in adoration. And He has raised high the Firmament and He has set up the balance of justice. This has been done, in order that you may not transgress due balance. So establish weight (i.e. regulate the weighing process) with justice and do not fall short in ensuring the balance." (Qur'ān 55:5-9)

Indeed, the religion revealed by Allah rests on the foundations of truth and justice. The Qur'ān says:

وَمَنْ كَلِمَتُ رَبِّكَ صِدْقًا وَعَدْلًا ۚ لَا مُبْدِلَ لِكَلِمَاتِهِ ۚ وَهُوَ السَّمِيعُ الْعَلِيمُ ۝ (الانعام)
"The word of your Lord does find its fulfilment in truth and justice." (Qur'ān 6:115)

The above statement signifies that Islamic teachings as well as Islam's doctrine about unseen realities are indeed true. There is no rationale for doubting their truth. Moreover, Islamic injunctions are completely free from coercion and injustice; they are aimed at ensuring fair play among human beings.

An important aspect of the mission of the Messengers of God is the establishment of justice in human society. Proper use of power, to achieve justice, has been ordained. The Qur'ān says:

لَقَدْ أَرْسَلْنَا رُسُلَنَا بِالْبَيِّنَاتِ وَأَنْزَلْنَا مَعَهُمُ الْكِتَابَ وَالْمِيزَانَ لِيَقُومَ
النَّاسُ بِالْقِسْطِ وَأَنْزَلْنَا الْحَدِيدَ فِيهِ بَأْسٌ شَدِيدٌ وَمَنَافِعُ لِلنَّاسِ وَلِيَعْلَمَ
اللَّهُ مَنْ يَنْصُرُهُ وَرُسُلَهُ بِالْغَيْبِ إِنَّ اللَّهَ قَوِيٌّ عَزِيزٌ ﴿٢٥﴾
(الحديد)

"We sent our messengers with clear signs and sent down with them the book and the balance. This was done in order that human beings may stand forth in justice. And We sent down iron. In it, there is great might as well as many benefits for mankind; so that Allah may test who it is (among human beings) that will help unseen, Allah and His messengers. Indeed, Allah is full of strength, exalted in might."

(Qur'an 57:25)

The society envisaged by Islam cannot be visualised in the absence of justice. Islam's primary teaching is to completely refrain from excesses of all kinds; no deviation from just conduct is permitted. The comprehensive Qur'anic guideline in this regard is the following:

إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ وَإِيتَايِ ذِي الْقُرْبَىٰ وَيَنْهَىٰ عَنِ الْفَحْشَاءِ
وَالْمُنكَرِ وَالْبَغْيِ يَعِظُكُمْ لَعَلَّكُمْ تَذَكَّرُونَ ﴿٩٠﴾
(الاحزاب)

"Allah commands justice, performance of good deeds and generosity to kith and kin. He forbids indecent action, evil conduct and insolence. He instructs you that you may receive admonition."

(Qur'an 16:90)

Islam maintains that even one's enemies are to be treated fairly. The Qur'an says:

يَا أَيُّهَا الَّذِينَ آمَنُوا كُونُوا قَوِّمِينَ لِلَّهِ شُهَدَاءَ بِالْقِسْطِ وَلَا يَجِبْ عَلَيْكُمْ شَتَاءُ
قَوْمٍ عَلَىٰ آلَا تَعْدِلُوا إِعْدِلُوا هُوَ أَقْرَبُ لِلتَّقْوَىٰ وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ خَبِيرٌ بِمَا
تَعْمَلُونَ ﴿٨٠﴾
(المائدة)

"O believers! Stand out firmly for Allah, as witnesses to fair dealing. Let not enmity of a group motivate you

to depart from justice. Be just; it is in accordance with piety. And fear Allah. Indeed, Allah is well acquainted with all that you do." (Qur'an 5:8)

Islam regards state power as a means to establish justice in society. Those at the helm of affairs obviously share greater responsibility in this regard. The ruler should establish justice in all circumstances and avoid injustice. Islamic state, in any case, is expected to utilise all its resources to ensure justice. Prophet David (A.S), who was also a ruler, was advised by Allah to be just (in discharging the duties of the state). The Qur'an mentions that Allah addressed David as follows:

يَا دَاوُدَ إِنَّا جَعَلْنَاكَ خَلِيفَةً فِي الْأَرْضِ فَاحْكُم بَيْنَ النَّاسِ بِالْحَقِّ وَلَا تَتَّبِعِ
الْهَوَىٰ فَيُضِلَّكَ عَنْ سَبِيلِ اللَّهِ إِنَّ الَّذِينَ يَضِلُّونَ عَنْ سَبِيلِ اللَّهِ لَهُمْ
عَذَابٌ شَدِيدٌ إِيمَانُ يَوْمَ الْحِسَابِ ﴿٣٨﴾ (ص)

"O David! We have indeed made you a vicegerent on earth. So judge between people with truth. Do not follow lust, for it will lead you astray from the path of Allah. For those who wander away from Allah's path, there is grave chastisement, because they forget the day of reckoning." (Qur'an 38:26)

The Last Prophet (pbuh) received a similar advice, from Allah:

وَإِنْ حَكَمْتَ فَاحْكُم بَيْنَهُم بِالْقِسْطِ إِنَّ اللَّهَ يُحِبُّ الْمُقْسِطِينَ ﴿٥٤﴾ (البائدة)

"If you choose to judge between them, be sure to judge in equity, because Allah loves those who judge in equity." (Qur'an 5:42)

The Prophet (pbuh) has stated that a just ruler, on the Day of Judgement, would be among those virtuous individuals, who will find shelter under Allah's throne, when no other shelter will be available.¹

¹ Bukhari, Kitab al-Adhan, Muslim, Kitab al-Zakah

Abdullah bin Amr bin Aas narrates that the Prophet (pbuh) said:

ان المقسطين عند الله على منابر من نور عن يمين الرحمن عز وجل
وكلتا يديه يمين، الذين يعدلون في حكمهم وأهليهم وما ولوا-

*"There is no doubt that on the Day of Judgement, just individuals would be seated near Allah, on illuminated seats. They would be on the right hand of the Merciful Lord and both His hands are right hands. These virtuous individuals had dealt fairly in their own affairs and in their family matters and in all other matters entrusted with them."*¹

The above teachings of Islam are explicit about importance of justice. Put into practice, these Islamic teachings would eliminate injustice and exploitation from society.

Supremacy of Law

Islam has prescribed a legal system and also endorsed the principle of supremacy of law. Hence all are to be treated equally, before law; with no distinction between rich and poor or mighty and weak. Everyone must accept the rule of law; otherwise it would indicate weakness of faith. The Qur'ān says:

وَمَا كَانَ لِمُؤْمِنٍ وَلَا لِمُؤْمِنَةٍ إِذَا قَضَى اللَّهُ وَرَسُولُهُ أَمْرًا أَنْ يَكُونَ لَهُمُ الْخِيَرَةُ
مِنْ أَمْرِهِمْ وَمَنْ يَعْصِ اللَّهَ وَرَسُولَهُ فَقَدْ ضَلَّ ضَلًّا مُبِينًا (الاحزاب)

"It is not fitting for a believer, man or woman that when a matter has been decided by Allah and His messenger, to have any option about their decision. If anyone disobeys Allah and His messenger, he is indeed on a clearly wrong path." (Qur'ān, 33:36)

In this context, the Qur'ān has criticised the hypocrites, since they were reluctant to accept the

¹ Muslim, Kitab al-Imarah

rulings of Allah and His messenger. They wrongly thought these rulings to be harmful to them. On the contrary true believers have an entirely different attitude. They carefully pay attention to Divine rulings in order to obey them and accept them sincerely. The Qur'ān describes the believers' attitude, as follows:

إِنَّمَا كَانَ قَوْلَ الْمُؤْمِنِينَ إِذَا دُعُوا إِلَى اللَّهِ وَرَسُولِهِ لِيَحْكُمَ بَيْنَهُمْ أَنْ يَقُولُوا سَمِعْنَا وَأَطَعْنَا ۚ وَأُولَٰئِكَ هُمُ الْمُفْلِحُونَ ﴿٥١﴾ وَمَنْ يُطِيعِ اللَّهَ وَرَسُولَهُ وَيَخْشَ اللَّهَ الَّذِي يَتَقَاتِلُ فَاُولَٰئِكَ هُمُ الْفَائِزُونَ ﴿٥٢﴾
(النور)

"The response of the believers, when summoned to Allah and His Messenger, in order that the Prophet (pbuh) may judge between them, is none but to say that 'we hear and we obey'. These are the people who will achieve success. One who obeys Allah and His messenger, fears Allah and does right, is among those who will triumph." (Qur'ān, Ch. 24:51-52)

History has recorded a shining example of supremacy of law. Once, a woman from the tribe of Bani Makhzoom committed theft. She was apprehended; then some people of that tribe requested a companion (of the Prophet (pbuh), namely) Usama to intercede before the Prophet (pbuh), on her behalf; that she may not be given the prescribed punishment (of amputation of hand). Though Usama was very dear to the Prophet (pbuh) as his own kin, the Prophet (pbuh) got angry at this intercession. The Prophet (pbuh) said: "O Usama! Are you interceding in a matter concerning Divinely ordained penalties?"

Then the Prophet (pbuh) clarified the matter in a public address. He said: "Many people before you were doomed because when an honoured person among them would commit theft, they would acquit

him. And when a weak individual would commit the crime, they would punish him."

After these preliminary remarks, he emphasised the supremacy of law in this remarkable statement, which only a Prophet (pbuh) could announce.

وأيما الله، لو أن فاطمة بنت محمد سرقت لقطعت يدها.

*"I swear by Allah that even if Fatima, the daughter of Muhammad, would have committed theft, I would have cut off her hand."*¹

Abdullah bin Umar narrates that the Prophet (pbuh) said:

من حالت شفاعته دون حد من حدود الله فقد ضاдалله.

*"If one intercedes to prevent the execution of Divinely ordained penalty, he opposes the will of Allah."*²

State As Guardian Of Human Rights

According to Islamic view, a person enjoying prominence in society has enhanced responsibilities. In particular, those with authority are charged with protecting the human rights of subordinates. The ruler shares the highest burden of this responsibility. According to the narration of Abdullah bin Umar, the Prophet (pbuh) said:

الاكلكم راع وكلكم مسئول عن رعيته، فالإمام الذي على الناس راع وهو مسئول عن رعيته، و الرجل راع على أهل بيته وهو مسئول عن رعيته، والمرأة راعية على أهل بيت زوجها وولده وهي مسئولة عنهم، و عبد الرجل راع على مال سيده وهو مسئول عنه، الا كلكم راع وكلكم مسئول عن رعيته.

"Let it be understood that all of you are guardians and you are accountable about your sphere of authority."

¹ Bukhari, Kitab al-Ambiya, Muslim, Kitab al-Hudood.

² Abu Daud, Kitab al-Aqzia

*The ruler is guardian of people and accountable for them. Head of a family will be held to account concerning his family. A lady is the guardian of her husband's house and children; she is accountable concerning them. Servant is custodian of his master's property and he is accountable for it. Know you all that all of you are guardians in some capacity and you are answerable concerning it."*¹

Due Process Of Law

Islam postulates the legal axiom that everyone is innocent unless proved guilty by due process in a court of law. To that end, it has laid out a detailed procedure to arrive at credible evidence in any legal case. To hold a person guilty without proper evidence or to harm an individual's prestige is a cognisable offence, in Islamic law. In the same spirit, Islam has forbidden propagation of rumours and has discouraged unwarranted speculation.

Once, a person from Iraq approached the Caliph Umar. He said that he wanted to report a matter which made no sense. Umar asked him to elaborate. The person said that the matter concerned "false evidence". Umar, on hearing this, stated categorically:

والله لا يؤسر رجل في الاسلام بغير عدول

*"By Allah, I tell you that under Islamic law, a person may not be imprisoned without credible evidence against him, rendered by reliable witnesses."*²

The above is a clear statement of the Islamic guidance that a person may be punished with imprisonment only when credible evidence is brought against him to prove that he indeed committed the crime that he is charged with; and that he deserves the punishment prescribed for that crime.

¹ Bukhari, Kitab al-Ahkam, Muslim, Kitab al-Imarah

² Muatta Imam Malik, Kitab al-Aqzia

Abolition of Enslavement of Free Individuals

In many regions of the world, the practice was that; exploiting the weakness of a person, he was captured by an unscrupulous person and sold as a slave; this could happen for instance due to an unpaid loan. This was a very reprehensible practice and Islam abolished it. It prohibited capture, enslavement and sale of free individuals. Also a slave once set free may not be enslaved again or made to serve as a slave. The Islamic scholars are unanimous about this. To enslave free human beings has been strongly condemned by Islam. Abu Hurairah has reported that the Prophet (pbuh) said:

ثلاثة أنا خصمهم يوم القيامة، رجل أعطى بي ثم غدر، ورجل باع
حرأ فأكل ثمنه، ورجل استأجر أجيرًا فاستوفى منه ولم يعط أجره.

*"Allah says that on the day of judgement, I myself will present the case against three persons. One of them is a man who made a covenant with God as witness and then violated it. Second is a person who captured and sold a free human being and devoured the price received. The third is one who hired a labourer but did not pay his wages."*¹

To gauge Islamic attitude, it may be noted that Islam encourages that slaves be set free. On the contrary, to enslave a free person is a grave crime in Islam. To compel a person to work without wages is, similarly a reprehensible sin. Even the prayers of such wrongdoers will be rejected by God. Abdullah bin Amr bin Aas has narrated that the Prophet (pbuh) said:

*"Allah does not accept the prayers of three characters. One of them is a person who after setting a slave free, enslaved him again."*²

¹ Bukhari, Kitab al-Buyu

² Abu Daud, Kitab al-Salat, Ibne Maja, Kitab Iqamat al-Salah

To stop such inhuman practices, the state may enact suitable legislation.

Undue Punishment Not Permitted

According to Hadīth, to unduly take away a person's clothes forcibly or to beat him on the back with lashes invites the wrath of God. Tabarani has quoted that the Prophet (pbuh) said:

من جرّده ظهر امرئ مسلم بغير حق لقي الله وهو عليه غضبان-

*"A person who without just cause, renders a believer naked by depriving him of his clothes, will meet Allah, when Allah would be very angry with him."*¹

The Hadīth is in the context of Islamic society; so unjust punishment given to a believer is being prohibited. But the principle is applicable to all human beings, generally. To inflict unjust punishment on any one is a grave crime and is a reprehensible deed which invites God's wrath. Punishment is permitted only when the guilt of the accused has been established and degree of punishment would be in accordance with the degree of crime.

Protection of Personal Honour

Every individual is naturally endowed with self-respect. It is among his human rights that he should not be insulted or given a bad name. Indeed he deserves respect as a human being. Human dignity is an important element of the ethical and legal framework erected by Islam. To malign a civilized person or to harm his prestige is a grave crime. In particular, the Prophet (pbuh) clarified that to unjustly accuse an innocent woman of immodesty is one of the major

¹ Munavi, Al-Taiseer bi sharh al-Jami al-Sagheer: 2/412

sins.¹ The Qur'ān has prescribed a punishment of eighty lashes for this crime.

وَالَّذِينَ يَرْمُونَ الْمُحْصَنَاتِ ثُمَّ لَمْ يَأْتُوا بِأَرْبَعَةِ شُهَدَاءَ فَاجْلِدُوهُمْ ثَمَانِينَ جَلْدَةً وَلَا تَقْبَلُوا لَهُمْ شَهَادَةً أَبَدًا وَأُولَئِكَ هُمُ الْفَاسِقُونَ ﴿٢٠﴾ (النور)

"And those who launch a charge against chaste women and do not produce four witnesses; flog them with eighty lashes. And reject their evidence ever after. Such men are wicked transgressors." (Qur'ān, 24:4)

The above verse describes the punishment to be given for false accusation of immodesty against chaste women. If a man is similarly accused of adultery and required evidence in support of the charge, is not presented, the accused will get the same penalty. The penalty is same whether the accused is male or female (if he / she is not a minor).

The law is explicit about false charge of adultery, labelled against an innocent person. For any other false accusation (as of theft, drinking or vagrancy), this punishment will not be given; instead suitable milder chastisement will be administered. This could include imprisonment. The chastisement is to be milder as compared to eighty lashes. A Hadīth says:

لا يجلد فوق عشر جلدات الا في حد من حدود الله.

*"Apart from prescribed penalties; for lesser offences, no more than ten lashes' flogging may be given as punishment."*²

Imam Abu Hanifah says that if the accuser is a slave, the punishment is forty lashes. So for lesser offences, the flogging should not exceed thirty-nine lashes. However, Abu Yousuf regards seventy-nine lashes as upper limit (because instead of a slave, he

¹ Bukhari, Kitab al-Wasaya, Muslim, Kitab al-Iman

² Bukhari, Kitab al-Hudood, Muslim, Kitab al-Hudood.

considers the case of free person as offender). Hazrat Ali's practice was a maximum of seventy-five lashes for lesser offences.

As for minimum chastisement, it could be as mild as three lashes. However, the punishment should not be so light that it causes no pain to the offender and fails to act as effective deterrent. Some scholars are of the view that the chastisement may vary from case to case and the judge may exercise his discretion.¹

A question arises that if the accused person forgives the offender, will the chastisement be waived off? Abu Hanifa, Sauri and Auzayee do not permit this. But according to Shafai, the chastisement may be waived off. Some scholars opine that if the matter reaches the court, right to forgive may not be exercised.² In this manner, Islam protects personal honour of individuals and prescribes detailed legislation for it.

Freedom of Movement

Islam has recognised as human right the freedom to travel in various regions of the Earth. Islam has encouraged people to observe the natural bounties provided by Allah. Lessons are to be learnt from places of historical interest as well. Man is also permitted to travel to meet his diverse needs. Allah has invited our attention to His design that the Earth provides easy avenues of travel. The Qur'ān says:

الَّذِي جَعَلَ لَكُمُ الْأَرْضَ مَهْدًا وَجَعَلَ لَكُمْ فِيهَا سُبُلًا لَّعَلَّكُمْ تَهْتَدُونَ (الزمر: 6)

"Allah has made for you the Earth. He has spread it out and has made for you roads therein, so that you may be guided towards destination." (The Qur'ān, 43:10)

¹ Hidayat, Kitab al-Hudood

² Ibne Rushd, Bidayat al-Mujtahid:6/140

وَاللَّهُ جَعَلَ لَكُمُ الْأَرْضَ بِسَاطًا ۖ لَتَسْلُكُوا مِنْهَا سُبُلًا فِجَاجًا ﴿٢٠﴾ (نوح)

"Allah has made the Earth for you as a carpet; so that you may move about in it, on spacious routes."

(The Qur'ān 71:19-20)

Islam has given some specific concessions to travellers. Society is encouraged to provide for them, if need be. They may also be supported by public treasury. Some needy people may travel for their livelihood; others are then encouraged to help them. In principle, Islam has permitted people to travel for any genuine reason; Islam encourages society to help them. It does not restrict movement of people.

Rights of Victims

Islam regards an individual's right to secure and peaceful life, as fundamental right; thus honour and property of a person are safe. In case of aggression from any quarter, the victim should be able to protest, to seek relief from court and to elicit public sympathy. The Qur'ān says:

لَا يُحِبُّ اللَّهُ الْجَهْرَ بِالشُّؤْرِ مِنَ الْقَوْلِ إِلَّا مَنْ ظَلِمَ ۚ وَكَانَ اللَّهُ سَمِيعًا عَلِيمًا ﴿١٤٨﴾ (النساء)

"Allah does not like your utterance of evil words in public speech; except by one who has been wronged.

And Allah hears and knows all." (Qur'ān, 4:148)

On the one hand, the victim is authorised morally and legally to protest and demand justice. On the other hand, it is a social obligation to help victims of injustice. The Prophet (pbuh) clarified that the victim deserves assistance from others; while the transgressors do not deserve any support. To support injustice would violate the very spirit of Islam. The Prophet (pbuh) said:

من مشى مع ظالم ليقويه وهو يعلم انه ظالم فقد خرج من الاسلام-

*"One who knowingly supports an oppressor, leaves the fold of Islam."*¹

To ensure justice, society should support the victim and isolate the oppressor. But the role of state is even more important, in this regard. Indeed,

Islamic state is obliged to provide justice for the victim. After assuming his office as Caliph, Abu Bakr — stated the state policy in this regard:

الضعيف فيكم قوى عندى حتى آخذ له حقه، والقوى ضعيف
عندى حتى آخذ منه الحق إن شاء الله تعالى.

*"The weak among you is strong in my sight till I restore to him his due. And the strong among you is weak in my sight till I take away from him whatever is properly owned by others. If Allah so wills!"*²

If the victim gets state support and if the state is conscious of its duty of ensuring justice then even the weakest will get a fair deal.

¹ Mishkaat al-Masabeeh, Kitab al-Aadaab.

² Ibne Aseer, Al-Kamil Fi al tareekh

Chapter:4

Right to Basic Needs

Right to life derives its rationale from sanctity of human life itself; the same sanctity leads to the wider notion of "human right to basic needs". In this context, Islam recognizes and affirms the basic right of a person to act freely. He is permitted to struggle in suitable ways to meet his needs. To that end, he may utilise bounties provided by God plentifully on earth. Basic human needs are many; they include the need for food, clothing, shelter (or dwellings) and (physical) assistance when required. Islam has recognized them all as genuine needs and has encouraged people to make efforts to meet them.

Economic Activities

Islam notes that provisions for man's needs have been abundantly made by Allah on this earth. Every human beings enjoys the natural right to procure and utilise these provisions. The Qur'an says:

هُوَ الَّذِي جَعَلَ لَكُمُ الْأَرْضَ ذَلُولًا فَامْشُوا فِي مَنَاكِبِهَا وَكُلُوا مِن رِّزْقِهِ
وَالْيَوْمِ النَّشُورُ ﴿١٥﴾

"Allah is He, who has made the earth habitable for you. So, traverse through its tracts and enjoy of the sustenance which He furnishes. And unto Him, is the resurrection."

(Qur'an, ch.67, v.15)

At another place the Qur'an says:

اللَّهُ الَّذِي سَخَّرَ لَكُمُ الْبَحْرَ لِتَجْرِيَ الْفُلُكُ فِيهِ بِأَمْرِهِ وَلِتَبْتَغُوا مِنْ فَضْلِهِ
وَلَعَلَّكُمْ تَشْكُرُونَ ﴿٥٠﴾ وَسَخَّرَ لَكُم مَّا فِي السَّمَوَاتِ وَمَا فِي الْأَرْضِ جَمِيعًا مِّنْهُ
إِنَّ فِي ذَلِكَ لَآيَاتٍ لِّقَوْمٍ يَتَفَكَّرُونَ ﴿٥١﴾ (المجابه)

"It is Allah who has subjected the sea to you; that ships may sail through it by His command. And that you may seek of his bounty and be grateful. And He has subjected to you, all that is in the heavens and earth. Indeed, there are signs in this, for those who reflect." (Qur'an, ch.45, v.12,13)¹

As is well known, Allah has instructed Muslims to pay attention to prayer call and join the special Friday prayers. After describing the importance of the occasion, the Qur'an says:

فَإِذَا قُضِيَتِ الصَّلَاةُ فَانْتَشِرُوا فِي الْأَرْضِ وَابْتَغُوا مِنْ فَضْلِ اللَّهِ وَاذْكُرُوا
اللَّهِ كَبِيرًا الْعَلَّامُونَ ﴿٥٢﴾ (الجمعة)

"And when the (prescribed Friday) prayer is over, then you may disperse through the land. And you may seek of Allah's bounty. And remember Allah frequently that you may prosper." (Qur'an, ch.62, v.10)

Once the prayers are over Muslims have been permitted by Allah to move about in the land to look for Allah's bounty.

The whole of earth is available for their pursuits and they are entitled to explore it to utilise its resources. Food is a basic need of man. Human beings have the distinction, in contrast to many other creatures, that they seek clean and pure food, for their consumption. Unclean or impure food is not acceptable to human nature; besides being injurious to health. Raw food as well as cooked food should be free from impurities in order to suit human temperament.

¹ The guidance & instructions in this regard are given in Qur'an, chapter 20, v53,54 also)

According to Islam, man is entitled to clean and pure food, obtained through his efforts. To seek clean food is not contrary to piety. Moreover, one must see that food is HALAL (permitted by Allah for consumption). The Qur'an says.

يَا أَيُّهَا النَّاسُ كُلُوا مِمَّا فِي الْأَرْضِ حَلَالًا طَيِّبًا ۚ وَلَا تَتَّبِعُوا خُطُوَاتِ الشَّيْطَانِ
إِنَّهُ لَكُمْ عَدُوٌّ مُبِينٌ ﴿١٦٨﴾ إِنَّمَا يَأْمُرُكُمْ بِالسُّوءِ وَالْفَحْشَاءِ وَأَنْ تَقُولُوا عَلَى اللَّهِ مَا
لَا تَعْلَمُونَ ﴿١٦٩﴾

"O mankind! Eat of what is on earth, lawful and good. And do not follow the footsteps of Satan; indeed he is your avowed enemy. The Satan commands you to do evil and shameful acts; and that you should say of Allah things, of which you have no knowledge."

(Qur'an, ch.2, v.168,169)

Clothing

An important basic need of man is that of clothing; its importance being manifold. Primarily, the presence of dress distinguishes human beings from animals. The animal's physical constitution is appropriate for the physical environment around them; accordingly they migrate to other places if their environment becomes inhospitable. The situation with man is different, who may not tolerate severe changes of climate. Hence he is in need of clothes to protect himself from harsh climate. Moreover, human beings have innate sense of modesty in a degree that animals do not possess. Nudity is abhorrent for man, so he wants to cover his private parts. When Adam and Eve were deprived of clothing given to them in paradise, they tried to cover themselves with plant leaves; this was a manifestation of the natural instinct of modesty. The Quran has referred to this event:

وَلَقَدْ أَخَذَ اللَّهُ مِيثَاقَ بَنِي إِسْرَءِيلَ مِنْكُمْ وَأَخَذَ مِنْكُمْ الْبَيْعَ (الأعراف)

"And they (Adam and Eve, on being deprived of their clothes) began to sew together the leaves of the garden on their (exposed) bodies". (Qur'an, ch.7, v.22)

Yet another significance of dress is aesthetic and ornamental. The Qur'an says:

يَا بَنِي آدَمَ قَدْ أَنْزَلْنَا عَلَيْكُمْ لِبَاسًا يُؤَارِي سِوَاكِكُمْ وَرِيشًا وَلِبَاسًا التَّقْوَىٰ (الأعراف)

ذَلِكَ خَيْرٌ ذَلِكَ مِنْ أَيْتِ اللَّهِ لَعَلَّهُمْ يَذَّكَّرُونَ ﴿٢٦﴾

"O children of Adam! We have bestowed raiment upon you to cover your private parts, as well as to be adornment to you. But the raiment of righteousness is the best. Such are among the signs of Allah, that they may receive admonition." (The Qur'an, ch.7, v.26)

Thus Islam has recognized the importance of dress and its quality, since it is among primary human needs. However man is advised while clothing himself, not to forget the greater importance of righteousness in his conduct.

Shelter

Shelter and dwellings are among human needs; these dwellings may be of various types each with its own peculiar utility. The Qur'an says in this regard:

وَاللَّهُ جَعَلَ لَكُمْ مِنْ بُيُوتِكُمْ سَكَنًا وَجَعَلَ لَكُمْ مِنْ جُلُودِ الْأَنْعَامِ بُيُوتًا

تَسْتَحْفِفُونَهَا يَوْمَ طَعْنِكُمْ وَيَوْمَ إِقَامَتِكُمْ وَمِنْ أَصْوَافِهَا وَأَوْبَارِهَا

وَأَشْعَارِهَا أَتَاكَ وَمَتَاعًا إِلَىٰ حِينٍ ﴿٥٨﴾ وَاللَّهُ جَعَلَ لَكُمْ مِنْهَا خَلْقَ ظِلَالٍ وَجَعَلَ

لَكُمْ مِنَ الْجِبَالِ أَكْنَانًا وَجَعَلَ لَكُمْ سَرَابِيلَ تَقِيكُمُ الْحَرَّ وَسَرَابِيلَ تَقِيكُمُ

بَأْسَكُمْ كَذَلِكَ نَمُهِمُّكُمْ عَلَيْهِمْ لَعَلَّكُمْ تُسَلِّمُونَ ﴿٥٩﴾ (النحل)

"It is Allah who has made your habitations, places of rest and quiet for you. He made for you, out of animal skins, tents for dwellings; which you find so light and

handy when you travel and when you stop (temporarily during your journey). And He made for you, out of animal wool, their soft fibre and hair; rich stuff and articles of convenience, to serve you for a considerable time. It is Allah who made out of the things He created, a number of things to give you shade. Of the hills, He made some for your shelter. He made for you garments, to protect you from heat, and coats of mail to protect you during combat. He has thus completed His favours on you; that you may surrender to His guidance" (Qur'an ch.16, v.80, 81)

Dwellings of three types have been mentioned in the above Qur'anic narration:

- a) Dwellings in forests and hills which were used by people in early times. Now such dwellings are used for military purpose only.
- b) Tents which may be easily transported from one place to another. Tents are used by migrating tribes and also for picnics & recreation.
- c) Permanent dwellings equipped with necessary facilities, which provide rest and quiet for dwellers. Such dwellings grow naturally as civilization develops.

About various types of dwellings and attire, the Qur'an (in the above narration) has pointed out that they serve a variety of human needs. They are to be counted among Allah's favours granted to human beings. A person in possession of a suitable home has been favoured by Allah to enjoy His bounty, for which he should be properly grateful. If a homeless person makes efforts to get a home for himself there is no harm in it. Indeed such efforts are to be encouraged, since he is seeking Allah's bounty in order to be independent of others.

Home is undoubtedly a primary human need. Hence Islamic state would provide homes to its functionaries and then it will also devise plans to provide home for all citizens. It would grant state support to build homes. Owners of houses would be assured of their ownership rights.

Assistance And Transport

Islam recognizes the human needs of assistance and transport. Mastoor bin shaddad has quoted the Prophet (pbuh) as follows:

من كان لنا عاملا فليكتسب زوجة، فان لم يكن له خادم فليكتسب
خادما، فان لم يكن له مسكن فليكتسب مسكنا، وفي رواية من
اتخذ غير ذلك فهو غال-

*"Our (state) functionary, if unmarried; is entitled to state support, in order to get married. If he needs a servant (for personal assistance), such a servant would be provided. He may build a house, with state support, if he doesn't have one."*¹

According to another narration, a state functionary is not entitled to state support for any other need (apart from the above three viz marriage, personal attendant and dwellings). If he tries to get any additional state support, it would amount to dishonesty, on his part.

The above hadith permits state support to meet genuine needs of a state functionary. The extent of this support would normally depend on the financial position of the state, and would have to be regulated. If remuneration given to a functionary is sufficient to meet these needs, he will not be entitled to any additional state support.

¹ Abu Daud, Kitab al-Khiraj wal-Fai wal-Imarah

Financial Prosperity

Islam does not degrade financial prosperity. The Qur'an, on the contrary promises that if a community abides by Divine teachings and establishes the religion of Allah on Earth, it will be blessed with prosperity.

وَلَوْ أَنَّهُمْ أَقَامُوا التَّوْرَةَ وَالْإِنْجِيلَ وَمَا أُنْزِلَ إِلَيْهِمْ مِنْ رَبِّهِمْ لَأَكْلُوا مِنْ فَوْقِهِمْ وَمِنْ تَحْتِ أَرْجُلِهِمْ مِنْهُمْ أُمَّةٌ مُقْتَصِدَةٌ وَكَثِيرٌ مِنْهُمْ سَاءَ مَا يَعْمَلُونَ ﴿٦٦﴾

(البقرة)

"If they (i.e. the children of Israel) had stood fast by the Torah and the Gospel and all the revelation that was sent to them from their Lord; then they would have eaten (abundantly) both from above them and from below their feet. There is among them a group on the right course but most of them are following evil path."

(Qur'an ch.5, v.66)

Islam has not ignored the importance of wealth. Instead it recognises its importance and regards it as necessary for survival of individuals and groups and for proper management of human affairs. The Qur'an says:

وَلَا تُؤْتُوا السُّفَهَاءَ أَمْوَالَكُمُ الَّتِي جَعَلَ اللَّهُ لَكُمْ قِيَمًا

(النساء)

"Do not give your wealth to those who are weak of understanding (because) Allah has given you that wealth to help you properly manage (your affairs)"

(Qur'an ch.4, v.5)

One may genuinely aspire to be like a wealthy person who spends from his wealth, for noble causes. The Prophet (pbuh) said:

لا حسد إلا في اثنين: رجل آتاه الله مالا فسلطه على مملكته في الحق،
ورجل آتاه الله الحكمة فهو يقضي بها ويعلمها.

"Envy is in two situations only. You may envy one, who has been given wealth by Allah and he spends from it for true cause. The second person is given by

Allah, deep understanding of religion; he judges things in its light and teaches wisdom to others”¹

Saad narrates that the Prophet (pbuh) said:

ان الله يحب العبد التقي الغني الخفي-

“Indeed Allah loves a person who is pious and well to do and keeps to himself.”²

Here the Prophet (pbuh) has mentioned the noble conduct of a well to do person. He silently spends his wealth in the way of Allah and does not seek publicity. Allah loves such a noble soul.

Amr bin Aas narrates that the prophet (pbuh) said:

نعم المال الصالح للرجل الصالح-

“Pure (legitimately earned) wealth is good for a noble person.”³

Possession of wealth is desirable provided it is earned legitimately and then used properly by an upright person. It then becomes a means to serve people and promote the cause of Allah’s religion. To earn by legitimate means is not wrong. Islam has provided avenues, and opportunities to encourage such earnings.

State’s Role

In its widest sense, Islamic state promotes human welfare; in particular it would provide basic needs of those who could not meet them. They include the poor and destitute. Abu Hurairah has narrated the following; in this regard.

When the Prophet (pbuh) was blessed by Allah with a series of victories, then the Prophet (pbuh) declared the following:

¹ Bukhari, Kitab al-Ilm, Muslim, Kitab al-Salah

² Muslim, Kitab al-Zuhd wal-Raqaeq

³ Musnad Ahmad:4/193

فلما فتح الله عليه الفتوح قال أنا أولى بالمؤمنين من أنفسهم، فمن مات وعليه دين ولم يترك وفاءً فعلى قضاؤه، ومن ترك مالا فلورثته، وفي رواية: من ترك دينًا أو ضياءً فليأْتنى فأنا مولاه، وفي رواية: من ترك مالا فلورثته، ومن ترك كلًّا فالينا.

"I am nearer to believers than their own selves. If a Muslim dies in debt, I will pay the loan on his behalf. On the contrary, if he leaves behind some wealth it will belong to the legal heirs"

According to another narration, the Prophet (pbuh) announced that:

"I am the guardian of the family left behind by a deceased Muslim. If he was in debt, I would repay the loan on his behalf."

In yet another narration, the Prophet (pbuh) declared that:

*"Wealth left behind by the deceased, would belong to the heirs while his liabilities would be shouldered by us."*¹

In early days in Medinah, if a person died; the Prophet (pbuh) enquired about debts due on him and whether the debts could be covered by assets left behind by the deceased. If debts could be paid, the Prophet (pbuh) would lead the funeral prayers otherwise, he would tell people to pray on their own.

This was done in order to warn people to be careful about unpaid debts. They should plan payment of debts during their life time itself. Sometimes another person would undertake to pay the debts on behalf of the deceased; the Prophet (pbuh) would then lead the funeral prayers.²

When as a result of several victories, the Islamic state of Medinah was financially better; Prophet (pbuh)

¹ Mishkat al-Masabeeh, Kitab al-Buyu (Bukhari & Muslim)

² Bukhari, Kitab al-Kifalah

himself (as head of state) took over the responsibility of paying the debts of poor Muslims. This example indicates that the Islamic state would be obliged to help needy Muslims, if it has the required capability. If Islamic State, inspite of its capacity, fails to provide for poor Muslims; it would be failing in its duty.¹

Worldly Pursuits Are Not Ultimate Objective

Economic prosperity achieved through legitimate means, is not prohibited in Islam. State would encourage legitimate efforts of individuals in this regard. In particular, the state would help the weak and poor to improve themselves. At the sametime, Islam warns people that worldly pursuits alone should not become sole aim of their life; nor should such pursuits lead them away from remembrance of Allah. The Qur'an says:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تُلْهِكُمْ أَمْوَالُكُمْ وَلَا أَوْلَادُكُمْ عَنْ ذِكْرِ اللَّهِ وَمَنْ يَفْعَلْ

(المنافقون)

ذَلِكَ فَأُولَئِكَ هُمُ الْخَاسِرُونَ ①

"O believers! Let not your wealth or your children divert you from remembrance of Allah. Those of you, who act thus, are surely losers." (Qur'an ch.63, v.9)

If an individual devotes himself entirely to worldly pursuits and is busy in chasing wealth, he would forget life here after. This would be a major loss. Hence Islam has advised moderation and restraint in one's conduct so that one's needs are kept in check and not allowed to unduly expand. Usman bin Affan narrates that the Prophet (pbuh) said:

ليس لابن آدم حق في سوى هذه الخصال: بيت يسكنه و ثوب يوارى به عورته وجلف الخبز والماء.

¹ Ibne Hajar, Fath al-Bari: 5/245

*"The son of Adam is not entitled in this world to anything except these; a house to live in, clothes to cover his body, dry bread to eat and water to drink."*¹

In the narration of Bureeda Aslami, a few more items are included in the above list but moderation is emphasized. Accordingly the Prophet (pbuh) said:

يكفى أحدكم من الدنيا خادم ومركب

*"A servant and an animal for your carriage, are sufficient provisions for you."*²

Abu Hashim bin Utbaah was a companion of the Prophet (pbuh). In his old age he recalled Prophet's (pbuh) advice to him. The Prophet (pbuh) had predicted that a lot of wealth would come in possession of Abu Hashim. The Prophet (pbuh) had advised him to accept from it, only one animal (to ride on during Jihad) and a servant. Abu Hashim used to lament that inspite of Prophet's (pbuh) mature advice, he unnecessarily gathered a lot of wealth, in the promised period of prosperity. He should have abided by Prophet's advice.³

Islamic attitude requires that man's material needs should certainly not be ignored. Within ethical limits, legitimate steps should be taken to meet these needs. The state is expected to provide support to individual efforts, in this regard. But Islamic attitude also requires that man should not become a blind slave of his desires and consequently ignore life here after. He should be careful that desires do not come to dominate him.

¹ Tirmizi, Kitab al-Zuhd

² Musnad Ahmad: 5/360, Tirmizi, Kitab Al-Zuhd

³ Tirmizi, Kitab al-Zuhd, Ibne Majah, Kitab al-Raqaeq

Chapter 5

Social Rights

Man is by nature a social being and hence each individual seeks a significant role for himself in his environment and society. This aspiration is part of human constitution and as a whole, the society can develop only when individuals are given sufficient freedom and opportunity to express themselves and the society gives due recognition to their individual rights. Such personal liberty is in principle, conceded in all democratic states, though it is made clear that such liberty may not be used to deprive others of their genuine rights. There cannot be freedom for anyone, to destroy freedom itself, in the larger social structure.

It is also recognized that genuine collective interests would impose reasonable restrictions on personal liberty. Individuals, obviously cannot be permitted to cause damage to the community or the state. Personal liberty has a number of implications; Islamic scheme of human rights gives widest scope to them and also identifies the limits on personal liberty.

Freedom of Thought

Allah has granted man the capacity to think and contemplate on events. Indeed it is a distinctive human attribute. Islam encourages development of the human thinking faculty and disapproves of any attempt to curb it. Historically Islam liberated mankind from superstitions and myths and encouraged use of reason

and intellect. It is below human stature to adopt an unreasonable stance in any matter or to entertain baseless notions about any issue. Islam has sharply criticised the tendency of some individuals who advocate unjustified commitment to tradition or unreasonable insistence on obsolete ways. The Qur'an says that many nations suffered from this ancient bias and it proved fatal for them.

أَمْ آتَيْنَاهُمْ كِتَابًا مِنْ قَبْلِهِ فَهُمْ بِهِ مُسْتَسْكِنُونَ ﴿٣١﴾ بَلْ قَالُوا إِنَّا وَجَدْنَا آبَاءَنَا عَلَىٰ
 أُمَّةٍ وَإِنَّا عَلَىٰ آثِرِهِمْ مُهْتَدُونَ ﴿٣٢﴾ وَكَذَلِكَ مَا أَرْسَلْنَا مِنْ قَبْلِكَ فِي قَرْيَةٍ مِنْ نَذِيرٍ
 إِلَّا قَالَ مُتْرَكُوهُمْ إِنَّا وَجَدْنَا آبَاءَنَا عَلَىٰ أُمَّةٍ وَإِنَّا عَلَىٰ آثِرِهِمْ مُقْتَدُونَ ﴿٣٣﴾ قُلْ أُولَٰئِكَ
 جُئْتُكُمْ بِأَهْدَىٰ حِمًى وَجَدْتُمْ عَلَيْهِمْ آيَاتٍ كُفِرُوا بِهَا إِنَّا كُنَّا زُفَرًا يَافُونَ ﴿٣٤﴾
 فَانْتَقَبْنَا مِنْهُمْ فَأَنْظُرْ كَيْفَ كَانَ عَاقِبَةُ الْمُكَذِّبِينَ ﴿٣٥﴾ (الزخرف)

"Have we given them any book before this (i.e. before the Qur'an), to which they are holding fast? Nay! Rather they say, "we found our forefathers following a certain way and religion and we guide ourselves by their footsteps." And whenever we sent a Warner, before you, to any town, the luxurious people among them said, "we found our fathers following a certain way and religion. And we indeed do follow their footsteps." (The warner) said: "Even if I bring you better guidance than that which you found your fathers following?" They replied, "verily, we disbelieve in that, with which you have been sent." So we took our revenge on them, then see what was the end of those who denied (the Prophetic call)."

(Qur'an Ch.43, v.21-25)

Islam cultivates in human-beings the attitude to reason things out. It laments the weakness of opponents of Islamic message who do not exercise their reason. They are not willing to consider the arguments presented by believers. The Qur'an says:

وَلَقَدْ ذَرَأْنَا لِجَهَنَّمَ كَثِيرًا مِّنَ الْجِنِّ وَالإِنسِ لَهُمْ قُلُوبٌ لَا يَفْقَهُونَ بِهَا وَلَهُمْ أَعْيُنٌ لَا يُبْصِرُونَ بِهَا وَلَهُمْ أَذَانٌ لَا يَسْمَعُونَ بِهَا أُولَئِكَ كَالْأَنْعَامِ بَلْ هُمْ أَضَلُّ أُولَئِكَ هُمُ الْغَافِلُونَ ﴿١٧٩﴾
(الأعراف)

"Indeed, we have created many of the jinn and mankind for Hell. They have hearts where with they understand not, and they have eyes where with they see not, and they have ears where with they hear not (the truth). They are like cattle, nay even more astray; they are heedless." (Qur'an ch.7, v.179)

Beside exhortation to think, Islam has pointed out that there are limits to human reason. It has positively provided the correct conceptual basis for fruitful thinking. Accordingly, the reasoning faculty should be used by people to know the truth.

Freedom of Action

Man has been created by Allah as a free agent; he has not been constrained to follow some particular course in his life. This freedom if used inappropriately, may prove harmful to one; hence proper regulation is required to guide man. Islam recognises the human freedom of action but does not approve of any wrong conduct that may harm society or may cause disorder in the land. A part of Prophetic mission has always been the elimination of mischief and disorder so that humanity may live in peace.

One particular instance of this prophetic mission is the message given by Prophet Shoeb (A.S.) to his people. He was sent to the tribe of Midian. Besides inviting people towards oneness of God, he instructed them to refrain from mischief and misconduct in their activities. The Qur'an quotes him as follows:

يَقَوْمِ اعْبُدُوا اللَّهَ مَا لَكُمْ مِنْ إِلَهٍ غَيْرُهُ قَدْ جَاءَكُمْ بَيِّنَةٌ مِنْ رَبِّكُمْ فَأَوْفُوا
الْكَيْلَ وَالْبَيْزَانَ وَلَا تَبْخَسُوا النَّاسَ أَشْيَاءَهُمْ وَلَا تَفْسُدُوا فِي الْأَرْضِ
بَعْدَ إِصْلَاحِهَا ذَلِكُمْ خَيْرٌ لَكُمْ إِنْ كُنْتُمْ مُؤْمِنِينَ ۝ وَلَا تَقْعُدُوا بِكُلِّ صِرَاطٍ
تُوَعِّدُونَ وَتَصُدُّونَ عَنْ سَبِيلِ اللَّهِ مَنْ آمَنَ بِهِ وَتَبْغُوا نَهَايَ جَاءَ وَإِذْ كُنْتُمْ فِي
كُنُفٍ قَلِيلًا فَكَفَّرَكُمْ وَانْظُرُوا كَيْفَ كَانَ عَاقِبَةُ الْمُفْسِدِينَ ۝ (الأعراف)

"O my people! Worship Allah. You have no other Being worthy of being worshipped, except Him. Verily, a clear proof has come to you, from your Lord. So give full measure and full weight (in your business dealings) and wrong not men in their provisions. Do not create disorder in the land, after its reformation. This behaviour is better for you, if you are believers. And sit not on every road; threatening (people) and hindering from the path of Allah, those, who believe in Him; and seeking to distort the path (of Allah). And remember that you were but few and He multiplied you. And keep in view the fate of the wrong doers."

(Qur'an Ch.7, v.85-86)

Another instance is of the tribe of Thamud. They were prosperous and civilized according to the standards of their times but their leaders were creating disorder in the land. Prophet Salih (A.S.) raised his voice against these mis-guided rulers. He addressed the people of Thamud as follows:

وَلَا تُطِيعُوا أَمْرَ الْهَاسِرِينَ ۝ الَّذِينَ يَفْسُدُونَ فِي الْأَرْضِ وَلَا يُصْلِحُونَ ۝ (الشعرا)

"And do not follow the dictates of transgressors; who make mischief in the land and reform not."

(Qur'an ch.26, v.151-152)

In contrast, the state of Medinah (under the guidance of the Prophet (pbuh)) was the centre of moral excellence and justice and was the noblest model for the world. The hypocrites were trying to cause disruption and damage the fabric of the state; the

Qur'an has exposed their misdeeds, on a number of occasions. The Qur'an says about the hypocrites that:

وَإِذَا قِيلَ لَهُمْ لَا تُفْسِدُوا فِي الْأَرْضِ قَالُوا إِنَّمَا نَحْنُ مُصْلِحُونَ ۖ أَلَا إِنَّهُمْ

هُمُ الْمُفْسِدُونَ وَلَكِنْ لَا يَشْعُرُونَ ۖ (البقرة)

"And when it is said to them (i.e. the hypocrites), "do not indulge in mischief on Earth" they say, "we are only peace makers." Verily, they are the ones who create mischief, but they perceive not."

(Qur'an Ch.2, v.11-12)

Islam affirms the innate human right of action and struggle and does not seek to unreasonably curtail human freedom. However it opposes such activities which may lead society towards corruption and disorder and ultimately prove fatal, for social fabric.

Freedom of Expression

In the contemporary democratic idiom, freedom of expression is a well recognized right viz every one is entitled to express one's views and opinions. And naturally others are free to accept or reject such views. But totally unhindered use of this freedom may cause harm to society, so reasonable regulation is required.

Islam accepts right to free expression, as a natural right; normally free speech should not be curbed and one should be allowed to present one's views to others. At the same time, Islam has regulated this right through some injunctions whose reasonableness cannot be denied, they are the following:

- 1) In one's utterances one should abide by ethical norms; in particular the speaker should respect personal dignity of others. There should be no attempt to malign any one or cause injury to his reputation and honour. One should refrain, in one's

speech; from lies, falsehood, baseless accusation, abuse, satire and harsh words. The Quran says:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا يَسْخَرْ قَوْمٌ مِنْ قَوْمٍ عَسَىٰ أَنْ يَكُونُوا خَيْرًا مِنْهُمْ وَلَا نِسَاءٌ مِنْ نِسَاءٍ عَسَىٰ أَنْ يَكُنَّ خَيْرًا مِنْهُنَّ وَلَا تَلْمِزُوا أَنْفُسَكُمْ وَلَا تَنَابَزُوا بِالْأَلْقَابِ بِئْسَ الْإِسْمُ الْفُسُوقُ بَعْدَ الْإِيمَانِ وَمَنْ لَمْ يَتُبْ فَأُولَٰئِكَ هُمُ الظَّالِمُونَ ① يَا أَيُّهَا الَّذِينَ آمَنُوا اجْتَنِبُوا كَثِيرًا مِّنَ الظَّنِّ إِنَّ بَعْضَ الظَّنِّ إِثْمٌ وَلَا تَجَسَّسُوا وَلَا يَغْتَبَ بَعْضُكُم بَعْضًا أَيُحِبُّ أَحَدُكُمْ أَنْ يَأْكُلَ لَحْمَ أَخِيهِ مَيْتًا فَكَرِهْتُمُوهُ وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ تَوَّابٌ رَّحِيمٌ ② (الحجرات)

"O believers! Let not a group scoff at another group, it may be that the latter are better than the former. Nor let (some) women scoff at other women, it may be that the latter are better than the former. Nor defame one another, nor insult one another by nicknames. How bad is it to insult one's brother after possessing Faith. And whoso ever does not repent, then such indeed are wrongdoers.

O believers! Avoid much suspicion. Indeed some suspicions are sins. And spy not, neither backbite one another. Would one of you like to eat the flesh of his dead brother? You would hate it (so also hate back biting). And fear Allah. Verily, Allah is the One who forgives and accepts repentance. He is most Merciful."

(Quran, ch.49, v.11-12)

This is an instance of Islam's moral teachings. Qur'an and Hadith have provided comprehensive moral guidance about etiquettes of speech. The guidelines have legal implications as well; which may be codified, if necessary.

- 2) On the pretext of freedom of expression, Islam does not permit promotion of indecency, immodesty or immorality in society. A society which seeks to uphold ethical values and nobility

cannot tolerate within its domain, the propagation of immoral ideas and practices. It would firmly stop such activities. The Qur'an says:

إِنَّ الَّذِينَ يُحِبُّونَ أَنْ تَشِيعَ الْفَاحِشَةُ فِي الَّذِينَ آمَنُوا لَهُمْ عَذَابٌ أَلِيمٌ فِي الدُّنْيَا وَالْآخِرَةِ وَاللَّهُ يَعْلَمُ وَأَنْتُمْ لَا تَعْلَمُونَ ﴿١٩﴾
(النور)

"Verily, those who like to see indecent ideas and scandal circulate among believers, will have a grievous chastisement in this life and in the Hereafter. Allah knows and you know not. (Qur'an, ch.24, v.19)

- 3) Activities to cause instability in the Islamic state and promote unrest there in or to compromise state security; are obviously not permitted.

In the state of Medinah, the conduct of hypocrites and Jews was particularly objectionable; they were usually active against the interests of the Islamic state. They used to spread false rumours among Muslims. During war, they would forecast the impending defeat of Muslims and exaggerate minor military losses suffered by Muslims, in order to demoralise them. The issue was a grave one since it involved security of the state. So firm action against such mischievous elements was indicated. The Qur'an says:

لَئِنْ لَمْ يَنْتَهِ الْمُنَافِقُونَ وَالَّذِينَ فِي قُلُوبِهِمْ مَرَضٌ وَالْمُرْجِفُونَ فِي الْمَدِينَةِ لَنُغْرِيَنَّكَ بِهِمْ ثُمَّ لَا يُجَاوِرُونَكَ فِيهَا إِلَّا قَلِيلًا ﴿٦١﴾ مَلْعُونِينَ أَيْتَمَوْا وَقِفَؤُهُمْ
أُخِذُوا وَقُتِلُوا تَقْتِيلًا ﴿٦٢﴾
(الاحزاب)

"Truly, if the hypocrites and those, in whose hearts is a disease, and those who stir up sedition in the city; desist not (from their misguided actions), we shall certainly instruct you to act against them. Then, they will not be able to stay in it as your neighbours, for any length of time. They will be cursed, wherever they are found; they shall be seized and slain." (Qur'an, ch. 33, v.60,61)

After this strict warning, the hypocrites were discouraged and it did not remain possible for them to continue to harm the security of the Islamic state. But Jews persisted in their conspiracies and mischievous clandestine activities. Then action had to be taken against them and ultimately they were expelled from Medinah.

Right to Establish a Family

Man is entitled to family life because family is a primary institution as well as a natural and social need. Civilized world throughout history, has always recognized the importance of family. The institution of family arises from marriage. Islam sanctifies marriage as the only proper way of satisfying the human sexual instinct. The resulting conjugal bond provides peace to the married couple and is the legitimate means to propagate human race. Islam grants due recognition and sanctity to the links created by marriage. The Qur'an says:

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا
زَوْجَهَا وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً، وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ
وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا ①
(النساء)

"O mankind! be dutiful to your Lord who created you from a single person. Then created out of it, its mate and from the two, scattered countless men and women. Be dutiful to Allah, through whom, you demand your mutual rights. And do not cut the bonds of kinship. Surely Allah, ever watches over you." (Qur'an, ch. 4, v.1)

In Islam, family responsibilities are not a liability, nor a burden to be unwillingly shouldered. Rather, family is a gift of God. The Qur'an says:

وَاللَّهُ جَعَلَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا وَجَعَلَ لَكُمْ مِنْ أَزْوَاجِكُمْ بَنِينَ
وَحَفَدَةً وَزَزَعَ لَكُمْ مِنَ الطَّيِّبَاتِ أَقْبَالَ بَاطِلٍ يُؤْمِنُونَ وَبِنِعْمَةِ اللَّهِ هُمْ
يَكْفُرُونَ ﴿٦٧﴾

"And Allah has made for you, mates of your own kind. And made for you, out of them, sons and daughters and grand-children. And provided for you sustenance of the best. Will they then believe in false notions and remain ungrateful for Allah's favours?" (Qur'an, ch.16, v.72)

Islamic teachings give rise to a family system in which mutual rights and duties of husband and wife are recognized. In addition, mutual obligations of parents and children have also been identified. Elders are to be respected in this system and the young ones are to be shown affection. Moreover all concerned have been advised to strengthen family ties and not let them be weakened.¹

Non Interference in Private Life

Personal life of a person should be free from undue external interference. Islam regards the above right as legitimate. No inquiry need ordinarily be made about a person's indoor activities. For a possible sinful activity privately done, he would be accountable to God. However, if a person indulges in objectionable actions openly or his activities cause harm to others, he would invite legal scrutiny. In principle, Islam suggests that initially a person should not be termed guilty, merely on suspicion. He should not be labelled as wicked or crooked and devoid of all virtue. Some suspicions may be baseless and it therefore becomes a sin to entertain them. Islamic teachings also exhort

¹ See for details author's books: "Woman and Islam" and "Rights of Muslim Woman: A Critique of the objections".

people not to spy on others. It is unethical to look for other's weaknesses and shortcomings. The Qur'an says:

يَا أَيُّهَا الَّذِينَ آمَنُوا اجْتَنِبُوا كَثِيرًا مِّنَ الظَّنِّ إِنَّ بَعْضَ الظَّنِّ إِثْمٌ وَلَا تَجَسَّسُوا... (المحجرات)

"O believers! Avoid excessive suspicion; indeed some suspicions are sins. And do not spy." (Qur'an ch.49, v.12)

Spying on people and entertaining suspicion affect personal life of people in significant ways. If a person's apparent behaviour is proper, there is no ground to speculate that his private life would be sinful. Such speculation and consequent enquiry into his private conduct is therefore not permitted.

A question may arise at this point. "Will it be wrong to enquire into personal life, for the purpose of reforming a person?" The answer is that "spying will not lead to reform; indeed it may worsen matters. If objectionable deeds done by someone secretly are exposed, the person may be emboldened to publicly commit sins." Muawiyah narrates that the Prophet (pbuh) said:

انك اذا اتبعت عورات الناس افسدتهم.

"If you enquire into private weaknesses of people, you would corrupt them".¹

Rulers have been similarly advised not to probe personal conduct. Abu Umamah narrated that the Prophet (pbuh) said:

ان الامير اذا ابتغى الريبة في الناس افسدهم.

"When a ruler looks for suspicious things in people's conduct, he would corrupt them".²

The above guidance given by the Prophet (pbuh) implies that state should refrain from spying on private

¹ Mishkaat al-Masabeeh, Kitab al-Imarah wa al-Qaza

² Musnad Ahmad: 6/4, Abu Daud, Kitab al-Adab

life of people. If their personal conduct is probed, no reform is possible. If people are not left unwatched in their privacy and are spied upon, there may be unhealthy reaction from them. Sinners may then seek innovative ways to indulge in sins.

Unauthorised entry into personal apartments is not permitted

A man's home is his fort where he may enjoy privacy. To enter his home without permission is undue interference in his privacy. While visiting, the visitor should say salam from outside the premises and then seek permission to enter. If permission is not given, he should withdraw, with no hard feelings. The Qur'an says:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَدْخُلُوا بُيُوتًا غَيْرَ بَيْتِكُمْ حَتَّى تَسْتَأْذِنُوا وَتُسَلِّمُوا عَلَى أَهْلِهَا ذَلِكَ خَيْرٌ لَّكُمْ لَعَلَّكُمْ تَذَكَّرُونَ ۝ فَإِنْ لَمْ تَجِدُوا فِيهَا أَحَدًا فَلَا تَدْخُلُوهَا حَتَّى يُؤْذَنَ لَكُمْ وَإِنْ قِيلَ لَكُمْ ارْجِعُوا فَارْجِعُوا هُوَ أَزْكَى لَكُمْ وَاللَّهُ بِمَا تَعْمَلُونَ عَلِيمٌ ﴿٢٨﴾

(النور)

"O believers! Enter not houses other than your own, until you have asked permission and saluted those in them, that is best for you; in order that you may heed. If you find no one in the house, do not enter it until permission is given to you. If you are asked to go back, then go back. That makes for greater purity for yourself. And Allah knows well all that you do."

(Qur'an, ch. 24, v.27, 28)

Contrary to the above civilized behaviour, if one peeps into someone's house; it is most reprehensible act.

Once the Prophet (pbuh) was in his apartment. A person peeped from outside through a hole in the door. The Prophet (pbuh) had a comb like object in his hand;

he was combing his head with it. The Prophet (pbuh) admonished the person thus:

*"Had I known that you were peeping in, I would have poked you in the eye. Permission to enter is to be sought to look at interior (of the house). If you peep inside, then that is entry without permission."*¹

In another instance, the Prophet (pbuh) said:

لو اطلع في بيتك أحد ولم تأذن له فخذفته بحصاة ففقات عينه
ماكان عليك من جناح-

*"If a person peeps into your house when you have not permitted him to do so, and you damage his eye by poking it with a stone, there is no blame on you."*²

Shafai has deduced from above instance that the house owner is within his rights, to poke a person in the eyes; who peeps into his house without permission. No claim would lie on the house owner. Abu Hanifa however regards these narrations as moral exhortions and not as legal rulings. Nevertheless, Islamic attitude is reflected in such commandments.

One should enter even near relatives' houses, with due permission. A person once asked the Prophet (pbuh); "Should I ask for permission to enter my mother's room?" The Prophet (pbuh) replied in affirmative. The person said; "but I am living in the same house". The Prophet (pbuh) said, "Even then, you should seek her permission". The person said, "but I have to attend on her." The Prophet (pbuh) said, "Nevertheless you should ask for permission to enter her room. Would you like it if you see her in the nude?" The person replied in negative. The Prophet (pbuh) said, "You must ask for permission to enter her

¹ Bukhari, Kitab al-Diyaat, Muslim, Kitab al-Adaab

² Bukhari, Kitab al-Diyaat, Muslim, Kitab al-Adaab

apartment.” (Otherwise, you may see her, while she is not decently dressed).¹

This conversation exemplifies the high regard given by Islam to privacy. Society should respect privacy of individuals and avoid undue interference in it.

Right to Serve the Community

Concern for community is not the sole prerogative of the state or of some influential individuals and groups. Rather each citizen is entitled to serve the community, with no undue restrictions placed on him. Islam has permitted individuals to serve the community in various fields including education, social development, moral reform and political matters. Qur'an has mentioned in this context, the possibility of private meetings held for healthy objectives.

لَا خَيْرَ فِي كَثِيرٍ مِّنْ نُّجْوَاهُمْ إِلَّا مَنْ أَمَرَ بِصَدَقَةٍ أَوْ مَعْرُوفٍ أَوْ إِصْلَاحٍ بَيْنَ

(النساء)

النَّاسِ

“In most of their secret talks, there is no good. But if one exhorts to a deed of charity or goodness or conciliation between people (then he has indeed done a commendable act).” (Qur'an, ch.4, v.114)

To spread the knowledge of Quran and Sunnah is a very noble activity. According to Usman, the Prophet (pbuh) said:

خيركم من تعلم القرآن وعلمه.

*“Best among you is one who learned the Qur'an and taught it.”*²

¹ Muatta Imam Malik, Kitab al-Jame

² Bukhari, Kitab Fazaal al-Qur'an

To be in good health and to serve others is desirable. Abu Huraira narrates that the Prophet (pbuh) said:

المؤمن القوى خير وأحب إلى الله من المؤمن الضعيف وفي كل خير.

*"In Allah's reckoning, a strong believer is better than a weak one; though there is good in both."*¹

While serving others, one must resolutely face hardships, and continue the noble deeds even in adversity and not lose heart. Abdullah bin Umar narrated that the Prophet (pbuh) said:

المسلم الذي يخالط الناس ويصبر على أذاهم أفضل من الذي لا يخالطهم ولا يصبر على أذاهم.

*"A Muslim who mixes with people and tolerates their excesses; is better than another who does not mix with people and does not encounter excesses from them."*²

To resolve disputes between individuals and groups and to conciliate between them is a very noble act; it is social service at its best and worthy of reward from Allah. It is even superior to voluntary prayer. Abu Darda narrates the following:

الا أخبركم بأفضل من درجة الصيام والصدقة والصلوة، قال قلنا بلى، قال: اصلاح ذات البين وفساد ذات البين هي الحالقة.

*"The Prophet (pbuh) asked those present, 'should I inform you of a deed better than voluntary fast or prayer and charity'? We said, 'Yes, certainly' He said, 'to conciliate mutual ties between people is the noble deed.' The Prophet (pbuh) added, 'Strained relations indeed destroy everything.'"*³

¹ Muslim, Kitab al-Qadr

² Musnad Ahmad: 2/43, Tirmizi, Kitab Sifat al-Qiyamah, Ibne Majah, Kitab al-Fitan

³ Musnad Ahmad: 6/444, Tirmizi, Kitab Sifat al-Qiyamah, Abu Daud, Kitab al-Adab

Every person is also entitled to propagate religion and offer advice to reform people. According to Umme Habiba, the Prophet (pbuh) said,

كل كلام ابن آدم عليه لا له، إلا أمر بالمعروف أو نهى عن منكر أو ذكر الله.

*"All speech uttered by son of Adam is futile unless it is for enjoining the good (Maroof), forbidding the evil (Munkar) or remembrance of Allah."*¹

Thus Islam encourages everyone to serve the society, to develop his capacities accordingly and to seek Allah's reward for such service.

Right to Criticize Rulers and Seek Reform

Messengers of Allah convey to the world, the message of truth and on its basis, seek to reform human society; they perform their task diligently, without any fear or apprehension. The Qur'an says:

الَّذِينَ يَبْلُغُونَ رِسَالَاتِ اللَّهِ وَيَخْشَوْنَهُ وَلَا يَخْشَوْنَ أَحَدًا إِلَّا اللَّهَ وَكَلَّى بِاللَّهِ
حَسِيبًا ۝ (الأحزاب)

"Messengers are those who convey the message of Allah and fear Him, and fear none except Allah. Indeed Allah is sufficient as Reckoner."

(Qur'an ch. 33, v.39)

Islam enables everyone to oppose the presence of evil in society and undertake reform. The Prophet (pbuh) said:

قل الحق ولو كان مرا

"Speak the truth, though it may be unpalatable to some" and

لا تخف في الله لومة لائم

¹ Tirmizi, Kitab al-Zuhd, Ibne Majah, Kitab al-fitan

*"Do not worry about any one's displeasure, when you are following Allah's religion."*¹

The Prophet (pbuh) has pointed out that to criticize the manifestations of evil (Munkar) and seek to eliminate them from society, is necessary corollary of faith. He said:

من رأى منكم منكراً فليغيره بيده، فإن لم يستطع فبلسانه، وإن لم يستطع فبقلبه وذلك أضعف الإيمان.

*"If any of you encounters an evil (Munkar), he should eliminate it by his hand. If he is not in that position, then he should eliminate it by his tongue. If even that is not in his capacity, he should keep alive in his heart, the will to eliminate Munkar. And this is the weakest degree of faith."*²

About a Muslim's attitude towards the existing state, basic principle is that the state will be supported in promotion of good (Maroof). If revealed law is being implemented by the state and sins are avoided; the state will deserve a believer's support. On the other hand, if the state promotes evil (Munkar) it will not deserve cooperation from believers. According to Ali, the Prophet (pbuh) said:

لا طاعة في معصية، إنما الطاعة في المعروف.

*"There is no obedience in sin. Obedience is in Maroof only."*³

Abdullah bin Umar narrates that the Prophet (pbuh) said:

السمع والطاعة على المرء المسلم فيما أحب وكره ما لم يؤمر بمعصية، فإذا أمر بمعصية فلا سمع ولا طاعة.

"A Muslim must listen to those in authority and obey them whether he likes or dislikes their commands, as

¹ Mishkat al-Masabeeh, Kitab al-Adaab

² Muslim, Kitab al-Iman, Abu Daud, Kitab al-Malahim

³ Bukhari, Kitab Akhbar al-Ahaad, Muslim, Kitab al-Imarah

long as he is not asked to commit sin. But if he is asked to do sinful act, he will neither listen nor obey.”¹

Nawas bin Sam’aan narrates that the Prophet (pbuh) said:

لا طاعة لمخلوق في معصية الخالق-

“A creature (i.e. a human being) will not be obeyed in disobedience of the Creator (Allah).”²

Islam motivates individuals to play active role in society; it has indicated the best ways of doing so. If Islamic guidance is put into practice, society would be freed from evil and would become an abode of peace and piety.

¹ Bukhari, Kitab al-Ahkaam, Muslim, Kitab al-Imarah

² Mishkat al-Masabeeh, Kitab al-Imarah

Chapter 6

Rights of the Weak

The weak have always been part of human society; the particular kind of weakness suffered by them could be physical, mental, financial or social. Today also, weak sections and individuals are found in all parts of the world; denial of their rights is routine and well known. They have been easy target of exploitation and oppression; the basic human freedom have often been denied to them. Islam had raised a powerful voice against ill treatment of the weak; it emerged as their champion and protector. The poor, the orphan, the needy and the handicapped were being trampled upon by powerful tormentors. The Qur'an subjected the cruel behaviour of these exploiters to sharp criticism; it warned them of severe chastisement which awaits them in life hereafter. Islam also laid out in clear terms, the legal rights of the weak and the deprived and granted them equal status in society. One may see the Islamic contribution, with reference to particular weak sections; in the following discourse.

Rights of Women

Woman has frequently been the victim of ill treatment; in as much as she was not usually granted equal status by men. She was regarded as inferior and her rights were denied. She was treated unethically and often inhumanly. Physical weakness often compelled women to tolerate injustice and she did not dare to protest.

In Arab society, woman's condition was even more deplorable. Girls were considered a liability by many Arabs and were sometimes buried alive. Death was regarded better for them than life. They had virtually no financial rights, with no share in inheritance. Even if not killed immediately after birth, they were treated as a burden. Islam raised its voice against this ill treatment of woman. It recognized their equal social status and excesses against them were condemned by it as crimes. Women were given property rights, by Islam as well as their share in inheritance. In conjugal life, respective duties and rights of both husband and wife were identified. Moreover Islam encouraged a social role for women. They were not relegated to be appendix of men, but recognized as responsible individuals in their own right. In Islam, both men and women are servants of God and equally accountable before Him. Whoever (male or female) returns to the Creator with a record of good deeds would be successful; whoever returns empty handed will fail in God's test.

Rights of Wife

Conjugal bond between husband and wife is the closest of human ties and it forms the foundation of family. Islam has recognized its importance and counselled both partners to honour and maintain it. On the one hand; the husband has been advised restraint even if he dislike some of his wife's habits. Ignoring such traits, he should continue to behave normally towards her; according to civilized norms (Maroof). The term "Maroof", in this context means good behaviour, regarded as reasonable by any civilized

person and approved by society as appropriate. The Qur'an instructs men as follows:

وَعَايِرُوهُمْ بِالْعُرْفِ فَإِنْ كَرِهْتُمُوهُمْ فَتَعَسَى أَنْ تَكْرَهُوا شَيْئًا وَيَجْعَلَ

(النساء)

اللَّهُ فِيهِ خَيْرٌ كَذَلِكَ ①

"Live with them honourably (as per Maroof). If you dislike them, it may be that you dislike a thing and Allah brings through it, a great deal of good."

(Qur'an, ch.4, v.19)

The Prophet (pbuh) frequently counselled people to adopt good behaviour towards their spouses. Once a companion, Muawiyah Qesheri asked the Prophet (pbuh) about rights of a wife. The Prophet (pbuh) replied:

أَنْ تَطْعَمَهَا إِذَا طَعَمْتَ وَتَكْسُومَهَا إِذَا اكْتَسَيْتَ وَلَا تَضْرِبَ الْوَجْهَ وَلَا تَقْبَحَ وَلَا تَهْجُرَ إِلَّا فِي الْبَيْتِ.

*"When you eat, let your wife also eat the same food. When you wear clothes, provide her clothes of same quality. Do not hit her on the face. Do not chastise her harshly. Do not remain aloof from her, except (possibly) within the house itself."*¹

In another narration, the Prophet (pbuh) said:

أَطْعَمُونِ مِمَّا تَأْكُلُونَ وَاكْسُونِ مِمَّا تَكْسُونَ وَلَا تَضْرِبُونِ وَلَا تَقْبَحُونِ.

*"Feed your wife what you yourself like to eat. Provide them clothes of a quality which you yourself like to wear. Do not beat them nor use harsh words, to admonish them."*²

The above narrations contain two important guidelines. Primarily the standard of living of wife should be commensurate with that of husband in such matters as food and clothes. It is not proper for a man

¹ Abu Daud, Kitab al-Nikah

² Ibid

to neat himself well and compels his wife to live at a lower standard. Secondly the general behaviour of the husband should be gentle and civilized; he should not ill treat his wife.

Abu Huraira narrated that the Prophet (pbuh) announced:

أكمل المؤمنين إيمانًا أحسنهم خلقًا وخياركم خياركم لنساءهم.

*"Best in faith are those believers whose conduct is best (with others). Better people among you are those who are better towards their wives."*¹

Ultimately, it is the moral conduct of a person which elevates him to higher degree of faith. A person who treats his family well is a good member of society.

Rights of Widows

Husbands have often erred in ill treating their wives; nevertheless there is a soft corner for the wife, in their hearts. It is a fact that spouses are emotionally attached to one another and their mutual love may be exemplary; their interests also bind them together. A man realises that his wife is mother for his children and home maker. The wife also knows the importance of his husband as protector of her honour. Naturally a wife feels closest emotional proximity with husband, and recognizes his crucial importance as companion and protector in the midst of life's struggles.

Due to her delicate physique, loss of husband critically damages a woman's position; she is deprived of protection and becomes easy target for exploitation.

It of-course often happens that husband dies leaving her wife behind. She becomes a widow; the tragic event is certainly part of Divine scheme. The

¹ Tirmizi, Kitab al-Riza'

woman herself is not to be blamed for her husband's demise but unjustifiably in many societies the widow was condemned for this calamity. She was supposed to be ill-fated and was despised on that account. On her husband's death, she would lose her social status and honour. Her sense of deprivation would be so severe that at times she would be led to commit suicide or to live a life worse than death. The situation of widows is still pitiable in today's world. To become a widow is a major psychological shock for a woman. Islamic teaching is that widows deserve our compassion and generosity. The Prophet (pbuh) has likened service of orphans and widows to Jihad (struggle in the way of Allah) and excellence in voluntary prayers. According to the Abu Huraira, the Prophet (pbuh) said:

الساعي على الأرملة والمسكين كالمجاهد في سبيل الله، وأحسبه قال
وكالقائم لا يفتر وكالصائم لا يفطر.

"One who struggles to help the widow and the poor is like a warrior in the way of Allah."

The narrator added that as I recall it, the Prophet (pbuh) also said,

*"The helper of widow and poor is like a person always standing before Allah in Prayers and fasting."*¹

Islamic law does not deprive a widow of her legal rights. She would get inheritance as a matter of course; from the property left behind by the deceased husband. If need be, she would be financially supported by her (mature) children or her parents. Most importantly, a widow may remarry to enjoy full family life yet again. Islamic society would encourage the remarriage of widows; it is the best solution to most of their problems.

¹ Bukhari, Kitab al-Adab, Muslim, Kitab al-Zuhd

Rights of Orphans

Orphan is a child whose father has passed away. That child may also be called an orphan whose mother has passed away. In any case, possible loss of a parent is a tragic event for the child; he is deprived of parental guardianship and sympathy. For upbringing, care and education, he becomes dependent on others. To treat an orphan as one's own child and to bear the burden of his upbringing and education till he becomes independent; is not an easy task. A person who undertakes this difficult duty has been given the good tidings of companionship of the Prophet (pbuh), in the life hereafter. According to Sahl bin Saad, the Prophet (pbuh) said:

أنا وكافل اليتيم في الجنة هكذا وقال بأصبعيه السبابة والوسطى.

*"An orphan's guardian would be next to me in paradise; as close to me as two fingers."*¹

So saying the Prophet (pbuh) held his index finger and middle finger.

A needy person related by kinship deserves our greater attention and care; the reward for serving him is greater. But even if the orphan is not a relative, caring for him would earn the same reward. For this service, the Prophet (pbuh) has given good tidings of his companionship, in the life hereafter. The Prophet (pbuh) said:

كافل اليتيم له أو لغيره، أنا وهو كهاتين في الجنة.

*"In paradise guardian of an orphan (related or unrelated to him by kinship) and myself would be as near to one another, as two fingers of my hand."*²

According to Imam Navavi, duties of guardian of an orphan include arrangement for his food, clothes

¹ Bukhari, Kitab al-Adab

² Muslim, Kitab al-Zuhd

and education. A person deserves credit for helping the orphan in both ways, when he spends from his own money or when he spends from the orphan's wealth itself.¹

According to Malik bin Harith, the Prophet (pbuh) said:

من ضمَّ يتيماً بين أبوين مسلمين إلى طعامه و شرابه حتى يستغنى عنه وجبت له الجنة.

*"A person who takes care of a Muslim orphan till he becomes mature and independent; has indeed earned entry into paradise."*²

According to Abdullah bin Abbas, the Prophet (pbuh) said:

من عال ثلاثة من الأيتام كان كمن قام ليلة وصام نهاره وغدا وراح شامرا سيفه في سبيل الله، وكنت أنا ومو في الجنة أخوان كما أن ماتين أختان، وألصق أصبعيه السبابة والوسطى.

*"A person who took care of three orphans is like the one who prayed all night, fasted in the day and rode as warrior, in the way of Allah. He and myself would be next to one another, in paradise; as close as two fingers of my hand."*³

The Prophet (pbuh) has warned people to refrain from committing any injustice against a woman or an orphan. He said:

اللهم إني أخرج حق الضعيفين اليتيم والمرأة.

*"O Allah! Indeed I hold a person guilty who violates due rights of two weak beings viz woman and orphan."*⁴

According to Abu Huraira, the Prophet (pbuh) said:

¹ Nawavi, Sharh Muslim, Vol.9

² Musnad Ahmad: 4/344

³ Ibne Maja, Kitab al-Adab

⁴ Musnad Ahmad: 2/439, Ibne Maja, Kitab al-Adab

خير بيت في المسلمين بيت فيه يتيم يحسن اليه وشر بيت في المسلمين بيت فيه يتيم يساء اليه.

*"Among Muslim households, the best is one where an orphan is treated well and the worst is one, where an orphan is ill treated."*¹

Orphan is a minor inexperienced person; not fully conscious of his rights and interests. To exploit and harm him is easy. Islam has strictly forbidden such conduct. If the orphan is wealthy, his wealth should be protected and suitably invested; no undue advantage is to be extracted from it. His wealth should be managed with good intention only. In this connection, the Qur'an says:

وَلَا تَقْرُبُوا مَالَ الْيَتِيمِ إِلَّا بِالَّتِي هِيَ أَحْسَنُ حَتَّى يَبْلُغَ أَشُدَّهُ ۖ (الأنعام)

"And do not approach orphan's property, except to improve it (with the best of intentions) till he attains puberty." (The Qur'an ch.6, v.152)

Those who devour an orphan's wealth, have been warned of hell fire:

إِنَّ الَّذِينَ يَأْكُلُونَ أَمْوَالَ الْيَتِيمِ ظُلْمًا إِنَّهُمْ يَكُلُونَ فِي بُطُونِهِمْ نَارًا ۖ وَسَيَصْلُونَ سَعِيرًا ۝ (النساء)

"Verily those who unjustly eat up the wealth of orphans, they consume only fire into their bellies. And they will be burnt in blazing fire." (Qur'an, ch.4, v.10)
The Prophet (pbuh) has identified seven fatal sins; one of them is to devour the property of an orphan.²

Abdullah bin Abbas has reported that due to such exhortations about orphan's property, people became very cautious about them. The guardians of orphans made separate arrangements even for feeding them because otherwise there was a possibility that

¹ Ibne Majah, Kitab al-Adab

² Bukhari, Ktab al-Hudood, Muslim Kitab al-Iman

unknowingly, one may consume an orphan's property. Food prepared for them was kept carefully separate and sometimes it was spoiled. Then the Qur'an advised them to avoid such strictness, and restore common facilities:¹

وَيَسْأَلُونَكَ عَنِ الْيَتَامَىٰ قُلْ إِصْلَاحٌ لَهُمْ خَيْرٌ وَإِنْ تُخَالِطُوهُمْ فَإِخْوَانُكُمْ وَاللَّهُ

يَعْلَمُ الْفَاسِدِينَ مِنَ الْمَصْلِحِ وَلَوْ شَاءَ اللَّهُ لَأَعْتَبْتُمْ إِنْ اللَّهُ عَزِيزٌ حَكِيمٌ ﴿٢٢٠﴾ (البقرة)

"They question you concerning orphans. Say: To deal with them in the way which is their good, that is best. And if you intermix (your expenses and living) with them, (there is no harm because) they are your brothers. Allah knows the mischievous from the righteous. Had Allah willed, He would indeed have imposed on you exacting conditions. But He is all powerful, most wise." (Qur'an, ch.2, v.220)

Here the emphasis is on choosing an alternative which is better for the orphans. Scholars have suggested that the wealth of orphans may be invested in some suitable business; it may be given to some competent person for joint venture on the basis of profit sharing. The guardian himself may do business with it. Orphans should be provided proper education and taught useful skills. On reaching puberty, their marriage should be arranged. The Qur'anic injunction underlines the basic fact that they are your brothers and should be treated as such.²

The Qur'an, in another context has reminded the guardians that they are trustees of orphan's property; they are charged with the duty of safeguarding it. When they reach puberty, restore their wealth to them; do not fritter it away before they attain maturity. If you are well to do, you should manage

¹ Abu Daud, Kitab al-Wasaaya, Nasai, Kitab al-Wasaaya

² See for the details Jassas, Ahkaam al-Qur'an vol.1 pp.400-401.

their affairs, free of charge. If you have limited means, you charge a fee for your services; but do not squander their wealth wastefully. The Qur'an says:

وَابْتَلُوا الْيَتَامَىٰ حَتَّىٰ إِذَا بَلَغُوا النِّكَاحَ فَإِنْ آنَسْتُمْ مِنْهُمْ رُشْدًا فَادْفَعُوا إِلَيْهِمْ أَمْوَالَهُمْ وَلَا تَأْكُلُوهَا إِسْرَافًا وَبِدَارًا أَنْ يَكْبَرُوا وَمَنْ كَانَ غَنِيًّا فَلْيَسْتَعِظِفْ وَمَنْ كَانَ فَقِيرًا فَلْيَأْكُلْ بِالْمَعْرُوفِ (النساء)

"Test the orphans until they reach the age of marriage. If you find them mature of mind, hand over to them their property. Do not eat it up by spending extravagantly or in haste, fearing that they would grow up (and claim it). If the guardian of the orphan is rich, let him abstain entirely (from his ward's property). And if he is poor, let him partake of it in a fair measure." (Qur'an, ch.4, v.6)

A person told the Prophet (pbuh) that "I am a poor person and also guardian of an orphan. Then may I eat from his wealth?"

The Prophet (pbuh) replied:

كل من مال اليتيم غير مسرف ولا مبادر ولا متائل-

*"You may eat from it no more than necessary. Do not consume it hastily or carelessly that it is all eaten away."*¹

Rights of Slaves and Subordinates

Slavery existed in ancient times and slaves were often ill treated. A slave could not gainfully occupy himself and had no property rights. The master had full time absolute control over the slave's body, belonging and capabilities. Masters treated slaves as they liked; sometimes worse than animals. Slaves had no right to protest against torment. Similarly other human beings in subordinate position have been ill treated,

¹ Abu Daud, Kitab al-Wasaaya

throughout history. Kings, rulers and the rich have often tormented people in their control. In particular, the weak have suffered tyranny of the powerful and their legitimate rights have not been conceded. Islam raised its voice against such inhuman practices. It laid out the rights of the ruled and subordinates and counselled kindness in dealing with them. To know Islamic viewpoint, one may study its teachings about slaves.

Abuzar narrates that the Prophet (pbuh) said:

إن اخوانكم خولكم جعلهم الله تحت ايديكم، فمن كان أخوه تحت يده فليطعمه مما يأكل وليلبسه مما يلبس ولا تكلفوهم ما يغلبهم، فإن كلفتموهم ما يغلبهم فاعينوهم.

*"Your slaves are indeed your brothers. Allah has made them subordinate to you. If your brother is a subordinate, feed him what you eat and give him to wear what you wear. Do not burden them with tasks beyond their capacity. If a difficult task is assigned, help them with it"*¹

According to Abu Hurairah, the Prophet (pbuh) said,

للمملوك طعامه وكسوته، ولا يكلف الا ما يطيق.

*"A slave should be provided proper food and adequate clothes and should not be burdened beyond capacity."*²

Explaining above teachings, Imam Navavi says that

"In scholars' unanimous opinion, to feed and clothe slaves at exactly the same standard, as that of the master, is not legally obligatory. But it is recommended. The normal practice of that town will be followed in providing basic needs of slaves. If a master, due to his particular temperament, chooses to

¹ Bukhari, Kitab al-Itq, Muslim, Kitab al-Imaan

² Muslim, Kitab al-Aimaan

live below his means; he cannot compel his slaves also to live at low standard. Scholars also agree that a slave cannot be assigned hard tasks beyond his capacity. For performing such tasks, the master would have to help the slave.”¹

A Hadith implies that a slave, if ill treated; should be freed. Once a companion, Abdullah bin Umar beat his slave; the slave's back bore the marks of beating. Abdullah bin Omar realized his impropriety and told the slave, “You are free.”²

Another companion Suwaid bin Muqrin reports that, “I had a girl as slave and she was slapped by one of my men. The Prophet (pbuh) told us to free her. People said that they had no other servant. The Prophet (pbuh) told them to free the maid, when an alternative becomes available.”³

Abu Masood Ansari was flogging his slave. He heard a voice calling him from behind. It was the Prophet (pbuh) who said:

“Abu Masood! You must realize that Allah has more power over you than you have over this slave.”

Abu Masood desisted from beating and announced that he would never beat a slave again. He also freed that particular slave. The Prophet (pbuh) approved of this act and said that:

“Hell fire would have reached you, if you had not freed the slave.”⁴

To falsely accuse a slave of a misdeed or to malign him is wrong and been warned against. Abu Hurairah says that the Prophet (pbuh) said:

من قذف مملوكه وهو برئ مما قال جلد يوم القيامة الا أن يكون
كما قال-

¹ Navavi, Sharh Muslim Vol.6 pp.111

² Muslim, Kitab al-Imaan

³ Muslim, Kitab al-Imaan

⁴ Ibid, Abu Daud, Kitab al-Adab

*"One who accuses a slave of adultery would be flogged on the day of judgement; unless the slave is really guilty."*¹

Imam Navavi deduces from this narration that false accusation of adultery, against a slave will not invite the usual punishment (of eighty lashes); but a lesser chastisement (on the discretion of the judge).²

Slavery was linked to presence of prisoners of war. In today's world, exchange of such prisoners would often be possible so the question of slavery (in today's context) may not arise, at all. In Islam's gradual abolition of slavery, it encouraged masters to free their slaves. The device of manumission was introduced to that end. Manumission means that the master agrees to free the slave in lieu of payment (of a sum mutually agreed upon); as mentioned in chapter 24 of the Qur'an. A person may also declare freedom of a slave, after the master's demise. For many sins and transgressions, the prescribed atonement is to free a slave. Instances of such transgressions are killing of a Muslim by mistake, breaking of an oath or liken one's wife to one's mother. For slaves not freed through above measures, Islam advocated kind treatment to them. They should not be made to bear a burden beyond their capacity. Slaves' rights were recognized, in addition to their obligations.

In the light of Islamic teachings about slaves, some general principles may be deduced about servants:

- a) Remuneration of a servant should be sufficient to meet his basic needs.
- b) A servant may not be beaten or punished. For violation of this rule, the master may be fined.

¹ Bukhari, Kitab al-Hudood

² Navavi, Sharh Muslim, Vol.6 pp.119

- c) The master may not malign a servant or terminate his services by labelling false accusations.

Rights of the Poor

The Quran has frequently exhorted people to help the poor. The poor should not be ignored to suffer in their poverty or be ill treated. (Qur'an chapter 90). When Qur'an recommends kindness to parents and relatives, it often mentions the poor also. (Chapter 4). When inheritance is being distributed among heirs, kindness should be shown to the relatives who are not legal heirs and also to orphans and the poor, who may have gathered on that occasion.

Qur'an condemns those who do not take care of the poor and the needy and are heedless of their hunger and poverty. They have been warned of hell fire. The Prophet (pbuh) has encouraged kindness to the poor and needy. According to Anas, the Prophet (pbuh) said:

من أغاث ملهوقاً كتب الله له ثلثا وسبعين مغفرة، واحدة منها صلاح امره كله وثنتان وسبعون له درجات يوم القيامة.

*"A person who helps a man in distress would earn seventy three instances of Allah's forgiveness and they would be duly recorded in his book of deeds. Even one instance of forgiveness (from among them) would suffice for him on the day of judgement; the other seventy two would elevate him to higher rewards."*¹

Abu Hurairah narrates that a person complained to the Prophet (pbuh) about hard heartedness and asked for remedy. The Prophet (pbuh) said:

أطعم المسكين وامسح رأس اليتيم.

¹ Mishkat al-Masabeeh, Kitab al-Adaab

*"(To get rid of hard heartedness), you should feed the poor and pat on orphan's head with affection."*¹

In general, the Prophet (pbuh) advised people to be affectionate towards the poor; one would not genuinely serve them in the absence of affection. A person affectionate towards the poor would also be kind to them. Abuzar narrates that:

أمرني خليلي صلى الله عليه وسلم بستبع: أمرني بحب المساكين والدنّونهم.

*"The Prophet (pbuh) gave me seven instructions. One is that I should be affectionate towards the poor and adopt their company."*²

The Prophet (pbuh) himself was affectionate towards the poor. He used to pray to Allah as follows:

اللهم أحييني مسكيناً وأمتني مسكيناً واحشرنى في زمرة المساكين.

"O Allah! Let me live as a poor person till I die (as poor). And then raise me again (on the day of judgement) among the poor."

Prophet's wife Ayesha asked him about the reason for the above prayer. He told her that the poor would enter the paradise, forty years before the rich. Then he gave her the following advice:

يا عائشة! أحيى المساكين وقربهم فان الله يقربك يوم القيامة.

*"O Ayesha! Be affectionate towards the poor and adopt their company. On the day of judgement, Allah will grant you His Company."*³

Apart from general moral teachings, Islam has also created specific avenues for welfare of the poor. For instance,

- a) Atonement has been prescribed for specific lapses occurring in acts of worship. One such

¹ Musnad Ahmad: 6/136

² Ibid: 5/159

³ Mishkat al-Masabeeh, Kitab al-Riqaq

atonement is to feed a number of needy persons. Similar atonement has been prescribed for some sins and transgressions.

- b) There is a prescribed share for the poor and needy, in spoils of war.
- c) Poor and needy are foremost in the list of recipients of Zakat.

In addition Islamic temperament requires that all necessary measures be adopted for financial improvement of the poor and needy. Within proper limits, the Islamic state as well as individual believers should initiate such measures.

Rights of the Physically Weak

A physically weak person would usually lag behind in earning his livelihood and would require assistance. Such assistance is usually not available, because people regard him as a burden. Islamic teachings seek to change this attitude. It has been pointed out that whatever one gets in this world is due to the presence of the weak in society. Hence one should not advertise one's benevolence after a generous deed; rather one should be properly grateful to God for the opportunity given to him to serve the needy. In the Divine scheme of things, Allah would feed the needy in the society, through resources given to the rich. This arrangement reflects Divine wisdom. If the rich do not take care of the poor, they would be replaced by others, who would help the poor. A companion of the Prophet (pbuh), Saad bin Abi Waqas, was famous for his generosity and might. His son Musab bin Saad reports that once his father thought himself to be better and ahead of others. (Perhaps he also thought that he deserved a greater

share of spoils of war). The Prophet (pbuh) (on knowing Saad's feelings), said that:

هل ترزقون وتنصرون الا بضعفائكم-

*"Allah gives you sustenance because of the weak among you."*¹

Another narration is:

انما ينصر الله هذه الامة بضعيفها بدعوتهم و صلواتهم واخلاصهم-

*"Allah helps the community of believers because of the weak in it. They deserve Allah's help due to prayers made by weak with sincerity."*²

When the believing community is victorious, the strong among them should not boast of their contribution nor think that the victory was achieved through their efforts. They should not regard themselves as superior to the weak. Rather they should realize that the weak are nearest to God; because their prayers to God have led to believers' victory. A companion of the Prophet (pbuh), Abu Darda narrated that the Prophet (pbuh) said:

ابغوني الضعفاء فإنما ترزقون وتنصرون بضعفائكم-

*"Identify the physically weak persons among you and bring them to me. It is because of them that you are given sustenance by God and you are helped by Him."*³

Another narration is:

أبغوني في ضعفائكم فانما ترزقون وتنصرون بضعفائكم-

*"Look for me among your weak. It is because of them that you are given provisions (by Allah) and you are helped."*⁴

The narration instructs believers to search for the weak, and to help them. Muslims are told that, "do not think that you are providing for the weak; but instead realize that whatever you get from Allah is due to

¹ Bukhari, Kitab al-Jihad

² Nasai, Kitab al-Jihad

³ Abu Daud, Kitab al-Jihad, Nasai, Kitab al-Jihad

⁴ Tirmizi, Kitab Fazaal al-Jihad

presence of the weak among you. The Prophet (pbuh) himself took regular care of the weak. That is why he said that he would be found among the weak and the needy; not among the rich and prosperous.

If Islamic temperament is properly cultivated in people's attitude, they would not regard sympathy to the weak as their benevolence. Rather they would think it their duty to help and support the weak. Even after performing this duty, they would be conscious of their lapses.

The Qur'an has counted it among believers' noble qualities that in their wealth, there is share for the destitute and also for those who ask them for help. The Quran says:

وَفِي أَمْوَالِهِمْ حَقٌّ لِّلسَّائِلِ وَالْمَغْرُورِ ① (الذاريات)

"In the believer's wealth, there is a rightful share for one who would ask for help and for the destitute".

(Qur'an, 51, v.19)

وَالَّذِينَ فِي أَمْوَالِهِمْ حَقٌّ مَّعْلُومٌ ② لِّلسَّائِلِ وَالْمَغْرُورِ ③ (المعارج)

"Believers are those, in whose wealth there is a known right for those who ask and the destitute."

(Qur'an, ch. 70, v.24, 25)

A person may ask for help; another may be needy but does not ask people for help. Both categories of the weak are entitled to help and sympathy. Such weak persons include the elderly, the sick, the handicapped and abandoned children. Some of them would narrate their needs and request for help. Others would avoid mentioning their poverty and would not like to appeal for assistance. In any case; in a believer's wealth, there ought to be a share for all such needy persons. It is also the primary duty of the state to alleviate their poverty and deprivation.¹

¹ See for details author's book entitled "Social Service in Islam"

Chapter 7

Rights of Handicapped

To possess a physically sound body is a supreme gift of God. Sound body includes such bounties of God as healthy heart, mind, eyes, ears, nose and limbs. There are a number of handicapped persons in this world, who may not possess some of these bounties. Islam advises them to be courageous and gives them a number of concessions, in the prescribed rules of conduct. In addition, Islam lays down the duty for normal persons to display sympathy and kindness towards the handicapped and serve them, to alleviate their suffering.

Cultivation of Patience

Islam in its comprehensive approach to the problem of human misery, first addresses the handicapped individual himself; such individuals have been advised to be forbearing and patient. They have been reminded that Allah has tested people in various ways. The handicap suffered by them is part of particular test intended for them and if they are patient, they would earn Allah's reward. They should accept their particular situation uncomplainingly as part of Divine scheme. To express resentment is not only useless; it also deprives a person of Allah's reward, promised on patient behaviour.

Anas bin Malik has narrated that the Prophet (pbuh) said:

إذا ابتليتُ عبدى بحبيبتيه فصبر عَوْضته منهما الجنة يريد عينيه.

*"Allah says, 'if I put my slave to test by depriving him of two lovely gifts (i.e. his two eyes) and if he is patient; I would reward him with paradise.'"*¹

In another narration (by Abu Hurairah) the Divine message is

من أذهب حبيبتيه فصبر واحتسب لم أرض له ثوابا إلا الجنة.

*"A person was patient and prayed for Allah's reward, when I deprived him of two lovely gifts. I would not choose any reward, for him; less than paradise."*²

Abdullah bin Abbas has narrated the case of a woman, who suffered from epilepsy. When an attack occurred, it would be so severe that her body would be exposed. She asked the prophet (pbuh) to pray for her. The Prophet (pbuh) replied, "If you like, I would pray for you. But if you are patient, Allah will reward you with paradise." She said, "Then, I will be patient. However please pray to Allah that my body may not be exposed during such attack." The Prophet (pbuh) accordingly prayed (for her) to Allah.³

It may be noted that in this instance, the woman requested the Prophet (pbuh) to pray to Allah to cure her. The prophet (pbuh) did not reject her request. But he counselled her to be patient and mentioned the award promised by Allah, for such patience. Perhaps the Prophet (pbuh) thought this course to be better for her; but we do not know the actual reason of the advice given by him. In any case, prayer to Allah is always possible. A handicapped individual may himself pray to Allah for recovery and he may also request others to

¹ Bukhari, Kitab al-Marza

² Tirmizi, Kitab al-Zuhd

³ Bukhari, Kitab al-Marza, Muslim, Kitab al-Bir wa al-sila

pray to Allah for him. It should be clearly realized that a particular prayer would be accepted or otherwise; in accordance with the destiny fixed by Allah. The person praying to Allah, should accept Allah's will whole heartedly and continue to be patient.

Usman bin Haneef narrated that a blind man requested the Prophet (pbuh) to pray to Allah for him; that his sight may be restored and Allah may bless him. The Prophet (pbuh) replied, "If you like, I would pray to Allah, for you. However, if you be patient, it would be better for you." The blind man again requested the Prophet (pbuh), to pray for him. The Prophet (pbuh) told him to properly perform abolution (*wadhu*) and then pray as follows:

اللهم انى اسألك و اتوجه اليك بنبيك محمد نبى الرحمة، انى
توجهت بك الى ربى ليقضى لى فى حاجتى، اللهم فشفعه فى-

*"O Allah! I beg of you your kindness and I turn to you by referring to your Messenger Muhammad, the Messenger of mercy. And I turn to my Lord through you, so that He may fulfil my need. O Allah! Accept the Prophet's prayer for me."*¹

A handicapped person is acutely aware of his affection. He may get depressed and may not muster courage to face the hardship. Hence patience is a very important quality, to be cultivated. Thus the handicapped may get mental peace and solace; with the realization that present hardships would ultimately earn him reward with God.

He would refrain from crying in complaint. A believer is one who uncomplainingly accepts Allah's decree. This noble trait supports and sustains the believer in difficult times. Patience is not a passive attribute of resignation and inertia; rather it implies a

¹ Tirmizi, Kitab al-Dawaat

courageous stance of facing adversity and hardship, which enables one to play an active part in life.

Milder Duties

A handicapped person may worry that he is unable to serve the cause of Allah's religion as actively as others. Islam assures him that Allah places responsibility on one, only according to one's capacity. Hence they are not expected to shoulder all responsibilities that may be given to people in general. Jihad is considered to be a very noble act and circumstances may arise when Islamic state may declare Jihad to be obligatory on all. To remain aloof from Jihad would then be a sin. Nevertheless the handicapped will not be obliged to join Jihad. The Quran says:

لَيْسَ عَلَى الْأَعْمَى حَرْجٌ وَلَا عَلَى الْأَعْرَجِ حَرْجٌ وَلَا عَلَى الْمَرِيضِ حَرْجٌ وَمَنْ يُطِيعِ اللَّهَ وَرَسُولَهُ يُدْخِلْهُ جَنَّاتٍ تَجْرِي مِنْ تَحْتِهَا الْأَنْهَارُ وَمَنْ يَتَوَلَّ يُعَذِّبْهُ عَذَابًا أَلِيمًا ﴿٤٨﴾
(الفتح)

"There is no blame on the blind, nor on the lame, nor the sick (if they do not go forth to fight). Allah will admit those who obey Allah and His messenger, to the gardens beneath which rivers flow. And He will inflict a grievous chastisement on those who turn away."

(Qur'an, ch. 48, v.17)

The Quran has clarified that those who fight in Allah's cause and those who remain aloof; are not equal. The believers engaged in Jihad have higher position; with the exception of the handicapped. The Qur'an says:

لَا يَسْتَوِي الْقَاعِدُونَ مِنَ الْمُؤْمِنِينَ غَيْرُ أُولِي الضَّرَرِ وَالْمُجَاهِدُونَ فِي سَبِيلِ اللَّهِ بِأَمْوَالِهِمْ وَأَنْفُسِهِمْ فَضَّلَ اللَّهُ الْمُجَاهِدِينَ بِأَمْوَالِهِمْ وَأَنْفُسِهِمْ عَلَى

الْقُعْدِينَ دَرَجَةً وَكُلًّا وَعَدَ اللَّهُ الْحُسْنَىٰ وَفَضَّلَ اللَّهُ الْمُجَاهِدِينَ عَلَى الْقُعْدِينَ أَجْرًا عَظِيمًا ۖ دَرَجَتٌ مِنْهُ وَمَغْفِرَةٌ وَرَحْمَةٌ وَكَانَ اللَّهُ غَفُورًا رَحِيمًا ۝ (النساء)

“Those believers, who sit at home, unless they do so because of disability, are not equal to those who strive in the way of Allah, with their possessions and their lives. Allah has exalted in rank those who strive with their possession and their lives, over those who sit at home; even though to each, Allah has promised some good. He has preferred, for a mighty reward those who strive (for Allah’s cause) over those who sit at home. For them are exalted ranks, forgiveness and favours from Him. And Allah is forgiving and compassionate”

(The Qur’an, ch.4, v. 95,96)

In these verses, exception has been granted to the disabled. Rest of the believers (possessing sound health and constitution) are categorized according to their contribution in Allah’s cause. A sincere believer who wishes to strive in Allah’s way but is prevented by disability, would earn from Allah the same reward as the warriors will. The Prophet (pbuh) has assured believers of this. According to Anas, the Prophet (pbuh) said (in the context of a battle):

إن اقوامًا خلفنا، ما سلطنا شعبًا ولا واديًا إلا وهم معنا، حبسهم العذر.

“Some people are left behind in Medinah. But (due to their sincere willingness to join Jihad), they are with us in each nook and valley that we traverse. Only their disability has prevented them from joining us.”¹

Another version is:

لقد تركتم بالمدينة أقوامًا ما سرتهم مسيرة ولا أنفقتهم من نفقة ولا قطعتم من وادٍ إلا وهم معكم فيه، قالوا وكيف يكونون معنا وهم بالمدينة، قال حبسهم العذر.

¹ Bukhari, Kitab al-Jihad

"You have left some people behind in Medinah. But they are with you when you walk some distance in Allah's way or spend from your wealth or traverse a valley." The companions asked the Prophet (pbuh), "How do they accompany us, when they are in Medinah?" The Prophet (pbuh) replied; "These are people who sincerely wish to join you in Jihad but disability has prevented them from doing so."¹

Similar to disability; sickness and unavailability of means are also genuine reasons for not joining Jihad.

Prayer with congregation is highly recommended. It is recognized as Prophet's trait and classed as obligatory. The handicapped have been exempted from the obligation to pray in congregation. According to Abdullah bin Abbas, the Prophet (pbuh) said:

من سمع النداء فلم يأت الصلاة فلا صلوة الا من عذر-

"One who hears prayer call and does not come to mosque to pray in congregation, his prayer will not be accepted by Allah; except when there is (genuine) reason of absence."²

The above two examples (of Jihad and prayer) indicate Islamic attitude about disabled; that they are exempted from some duties, or given concession.

Recognition of Talent

A handicapped person sometimes may possess unusual talent. If encouraged and provided opportunities of development, handicapped may also lead a productive life and be useful for society. Islam advocates due recognition and utilization of qualities and capabilities of handicapped persons. Their contribution to society should be appreciated. Today religious services are not regarded as important or

¹ Abu Daud, Kitab al-Jihad

² Ibne Maja, Daar Qutni, Ibne Hibban, Hakim

prestigious. Hence service in a mosque as Imam (who lead the congregation) or Muazzin (who calls for prayers) is considered inferior and people chosen for these positions are low in economic or social rank. But actually according to Islam, Imam and Muazzin are very honourable positions. People appointed for them should be capable and pious. In Prophet's time, this standard was adhered to. In this context, one may note that Prophet (pbuh) himself led the congregational prayers in his lifetime. He had appointed two Muazzins, Bilal and Amr bin Umme Maktoom.¹

One of the Muazzins, Bilal was a freed slave while Ibn Umme Maktoom was blind. One may gauge from this appointment, the recognition given by Islam to the talents of slaves and handicapped. When the Prophet (pbuh) left Medinah for the battle of Tabook, he had appointed Ibn Umme Maktoom to lead the prayers in his absence.² Bar'aa bin Aazib says that when Muslims migrated from Meccah to Medinah, the first Muslim to reach Medinah was Musa'ab bin Umair. Next came Ibn Umme Maktoom. The Prophet (pbuh) frequently appointed him to lead the prayers in his absence, when Prophet (pbuh) had to leave Medinah for a war.³ It is reported that he was thus appointed, on thirteen occasion.⁴

Utbaan bin Malik Ansari was a companion of the Prophet (pbuh). He participated in the battle of Badr. In his old age, his sight had been affected. Still he led the prayers in his tribe.⁵

¹ Muslim, Kitab al-Salat

² Abu Daud, Kitab al-Salat

³ Ibne Hajar, Al-Isabah fi Tamyeez al-Sahabah: 4/495

⁴ Ibne Abd al-Bar, Al-Isti'ab fi Asma' al-Ashaab: 3/276

⁵ Bukhari, Kitab al-Salat, Muslim, Kitab al-Masajid

About another companion Umair bin Adeed, it has been reported that he was blind. Yet he was the first in his tribe to embrace Islam. He had memorized a part of Qur'an and was called Qari (an scholar of Qur'an). He led the prayers, in his tribe.¹

Good Deeds by Handicapped, Deserve Greater Reward

If a person in spite of possessing lesser capacity does a good deed; Islam promises him greater reward from Allah. This is because he has to work harder than the more capable ones. Ayesha has narrated that the Prophet (pbuh) said:

المأمر بالقرآن مع السفارة الكرام البررة، والذي يقرء القرآن ويتتبع فيه وهو عليه شاق له أجران-

*"One with expert knowledge of Qur'an is like angels who are engaged in writing Divine scriptures and are very noble souls. On the other hand, a person who reads the Qur'an with difficulty, will get double reward, due to his exertions."*²

This hadith first mentions the exalted status of an expert in Qur'anic knowledge; he would be in the company of noble angels who are entrusted with the Qur'an. Then the Hadith goes on to encourage the less capable layman, who does not possess expertise in reading the Qur'an. Due to affliction of the tongue or lesser linguistic capability, he is not fluent in reading the Qur'an. Nevertheless he persists in reading the Qur'an, though slowly and with difficulty. Due to this added exertion, he would earn double reward. The same encouragement is given by Islam to less capable or disabled persons; who in spite of hardship, do good deeds. They would deserve greater reward from Allah,

¹ Al Isabah :4/599, Al Iatiaab: 3/291

² Muslim, Kitab Fazaal al-Qur'an

for their exertions. Due to such tidings, the less capable, the sick and the disabled got renewed energy and were inspired by Islam to render service to religion.

Companions of the Prophet (pbuh) were passionate to join congregational prayer. In this context, Abdullah bin Abbas says:

ان كان المريض ليمشى بين رجلين حتى يأتي الصلوة.

*"Even a sick person used to come to the mosque (to join congregational prayer); though he could walk with support of two persons."*¹

Another narration is:

لقد كان الرجل يوتئ بها يهادى بين الرجلين حتى يقام فى الصف.

*"A person was placed between two and helped to stand in the line (formed for congregational prayer)"*²

Ibn Umme Maktoom, inspite of blindness participated in the battle of Qadsiya. He was killed in this battle and achieved martyrdom.³

Islam has, on one hand, encouraged the disabled to be confident and courageous. On the other hand; it has held the society responsible for helping the disabled. It is society's duty to help them.

Recognition of Human Dignity of the Handicapped

The handicapped are often regarded as inferior; but Islam teaches people to treat them with respect. Once the Prophet (pbuh) was talking to some tribal chiefs of Quraish about Islamic message, when Ibn Umme Maktoom (who was blind) came to meet the Prophet (pbuh) and began talking to him. The Prophet (pbuh) did not like his arrival; he thought that these

¹ Muslim, Kitab al-Masaajid

² Ibid

³ Ibn Abd al-Bar, Al-Istia'b: 3/276

arrogant chiefs would not like to sit in the company of a blind person. Obviously the Prophet (pbuh) was eager to convey Islamic message to the Quraish chiefs; if they accepted Islam, others would also come to Islamic fold.

Inspite of the importance of Islamic message and its propagation; the Quran pointed out that these arrogant people do not deserve such attention, because it is to their own advantage to accept the truth. If they reject it, they do not harm you in any way; the loss is theirs. In entertaining such arrogant people, do not ignore a sincere seeker of truth (though he be blind). The Qur'an says:

عَبَسَ وَتَوَلَّى ۖ اَنْ جَاءَهُ الْاَعْمَى ۚ وَمَا يُدْرِيكَ لَعَلَّهٗ يُزَكَّى ۚ اَوْ يَدَّكُرُ
فَتَنْفَعَهُ الْدُّكْرٰى ۚ اَمَّا مَنِ اسْتَغْنٰى ۚ فَاَنْتَ لَهٗ تَصَدَّقٰى ۚ وَمَا عَلَيْكَ اَلَّا
يُزَكِّى ۚ وَاَمَّا مَنِ جَآءَكَ يَسْعٰى ۙ وَهُوَ يَخْشٰى ۚ فَاَنْتَ عَنْهُ تَلَهٰى ۚ كَلَّا اِنَّهَا
تَذٰكِرَةٌ ۚ فَمِنْ شَآءَ ذَكَرْهُ ۚ (عبس)

"He (i.e. the Prophet) frowned and turned away that the blind man came to him. How could you know? Perhaps he would cleanse himself or he might be attentive and your good counsel might avail him. Now he who waxes indifferent, you attend to him; though you are not to blame if he would not cleanse himself. But one who comes to you running, and fears Allah, you pay no heed to him. No! Indeed, this is only a reminder. So whosoever wills, may give heed to it."

(Quran, ch.79, v.1-12)

Thus Islam has clarified that for Allah, the status of a person is not determined by physical stature, health or riches; rather it derives from piety and nobility of character. Therefore a blind person with passion for truth and desire for personal growth is superior to one with beautiful eyes but inert heart, who

is indifferent to Divine guidance due to arrogance of power and wealth. For the sake of such transgressors, it is not proper to ignore the handicapped but sincere slaves of God.

A disabled person may suffer from feelings of inferiority; he may be reluctant to mix and interact with people and eat with them. Islam seeks to overcome such feelings of inferiority, because otherwise the handicapped individual would continue to be isolated from (normal) people. The Qur'an says:

لَيْسَ عَلَى الْأَعْمَى حَرَجٌ وَلَا عَلَى الْأَعْرَجِ حَرَجٌ وَلَا عَلَى الْمَرِيضِ حَرَجٌ وَلَا
عَلَى أَنْفُسِكُمْ أَنْ تَأْكُلُوا مِنْ بُيُوتِكُمْ

(الدور)

"There is no blame on the blind nor any blame on the lame nor any blame on the sick nor on yourself that (they as well as you) may eat in your house."

(Qur'an, ch. 24, v.61)

The Quranic teaching is that the disabled and the sick be permitted to freely go to houses of their relatives and friends and may also eat there. When Islam places no restriction on their interaction, why should they unnecessarily show reluctance? After all they are part of society, equal in status to everyone else.

Some people prefer not to mix with the sick and the disabled or eat with them, but such attitude is not proper. One should not avoid the company of the handicapped. They deserve our sympathy and it is our basic duty to serve them. They are not to be despised, merely on account of disability.

Kind Treatment

Islam has advised people to help the handicapped, the weak and the needy; and taught that they be treated with kindness. Help to them may be financial whose

importance (as charity) is well recognized. But other forms of help also have their own importance. Hence Islam encourages people to help the disabled and needy, financially as well as otherwise. It is indeed a charitable deed to spend one's wealth on the needy; but to invest one's time and energy for them is also a charitable action. The Islamic concept of good deed is comprehensive. One may utilise one's time and energy in remembrance of Allah and worshipping Him; it is a commendable trait. One may also invest one's energy and resources in serving people; achieving moral excellence, treating the weak with sympathy, promoting virtue and forbidding evil. All these would count among commendable actions.

Abu Zar narrates that the Prophet (pbuh) said,

*"To smilingly meet your brother is charity, to promote virtue and forbid evil is charity, to show the way to the wanderer is charity, to help a blind man is charity, to remove thorn or stone from the road is charity and pour water in brother's bucket from your own is charity."*¹

In another narration of Abu Zar, it is reported that the Prophet (pbuh) said:

"When the sun rises, it becomes obligatory on every (human) being to spend in charity." Abu Zar said, "O Prophet (pbuh)! We do not have wealth that we may spend from it, daily in charitable deeds." The Prophet (pbuh) said, "Charity has many forms. To say "Allah is greatest, all praise be to Allah, there is no one to be worshipped except Allah. I seek forgiveness from Allah" are acts of charity. You should promote virtue and forbid evil. Remove from the public road, thorns or stones. You should help man in traversing the road. Enlighten the deaf and dumb. Suggest possible ways in which the needy may get help. Strive to help a person

¹ Tirmizi, Kitab al-Bir wa al-Silah

in distress. Assist the weak. These are all charitable acts."¹

According to Abdullah bin Omar, the Prophet (pbuh) said,

من قاد مكفوفا أربعين خطوة غفرله ما تقدم من ذنبه وما تأخر.

*"If a person helps a blind man to walk forty steps, his past sins would be pardoned."*²

Sympathy

Words of sympathy are important for the handicapped with due regard to his sentiments, his sorrow should be lightened. He should be comforted by such expressions of sympathy that he does not feel alienated.

Utbaan bin Maalik was a companion of the Prophet (pbuh). Due to old age, his eye sight had been affected. He requested the Prophet (pbuh) that, "On rainy days, I cannot reach the mosque. You pray once at some spot in my home; then I would pray at the very same spot." The Prophet (pbuh) said, "I will certainly come to your house." Next day, the Prophet (pbuh) accompanied by Abu Bakr arrived at Utbaan's house. The Prophet (pbuh) asked him to point out the spot chosen. Utbaan pointed out a spot. Utbaan says that the Prophet (pbuh) prayed two rak'ats there and we prayed with him. Then we asked the Prophet (pbuh) to stay for a while to eat khazeer with us (which is a dish of meat and flour)."³

¹ Musnad Ahmad: 5/169

² Ibne Hajar, Al-Khisal al-Makaffirah

³ Bukhari, Kitab al-Salah, Muslim, Kitab al-Masajid

Jubair bin Mat'am reports that sometimes the Prophet (pbuh) would say, "Let us go to the locality of Waqif to meet Baseer." Baseer was a blind man.¹

According to another narration, the blind man was Umair bin Ade'e. The Prophet (pbuh) used to go to his locality, to meet him.²

Islam urged kindness to the disabled and at the sametime forbade ill treatment towards them; such unkind behaviour would invite Allah's wrath and condemnation. Abdullah bin Abbas says that the Prophet (pbuh) said:

لعن الله من كره الأعشى عن السبيل-

*"Allah condemns one who led a blind man astray from his path."*³

Insane will Not be Accountable

More severe than physical handicap is mental affliction. It has various degrees; the worst being insanity wherein a person loses all sense and is not conscious of his actions or their consequences. Man's accountability for his actions derives from possession of reason and senses. So an insane person cannot be deemed accountable. According to Ali, the Prophet (pbuh) said:

إنَّ القلم رفع عن ثلاثة: عن المجنون حتى يفيق، وعن الصبي حتى يدرك، وعن النائم حتى يستيقظ-

*"Three persons are not accountable; an insane person till his reason is restored, a child till he attains puberty and a sleeper till he wakes up."*⁴

¹ Al-Munzire, Al-Tarhib wal-Tarheeb

² Ibne Hajar, Al-Isabah fi Tamayczal-Sahabah

³ Musnad Ahmad: 1/309, Bukhari, Al-Adab al-Mufrad

⁴ Bukhari, Kitab al-Talaaq, Abu Daud, Kitab al-Hudood

Rulings Regarding Insanity

In regard to the insane, scholars have deduced the following:

1. The insane do not have any obligations. For duties assigned by Allah, they will not be held answerable.
2. A sin committed by an insane person will not invite cognizance. ———
3. Deals done by an insane person are legally invalid such as sale, purchase or gift. Any such action as marriage or divorce by him is invalid.
4. If the insane commits a crime, there will be no chastisement.
5. However fine may be imposed for any physical or financial damage done by an insane to another person.¹

Thus Islam absolves the insane from accountability in life here after. It has also protected his interests that he may not be ill treated or exploited.

Concessions to Mentally Retarded

Some people are not insane, but are mentally retarded. They have no proper understanding of affairs and no sense of discretion. Islam teaches normal people to take care of them, treat them kindly and not to deceive them.

A companion of the Prophet (pbuh), from among the Ansar of Medinah, was mentally weak. According to Adullah bin Omar, the companion said to the Prophet (pbuh), "For my livelihood, I am compelled to do business. But I invariably get cheated." The Prophet (pbuh) advised him, "When you transact business, announce that "there is no deceit in our religion."

¹ See for details: Hidayah, Kitab al-Hijr

The companion adopted this practice.¹

This event helps us understand the nature of the society developed in Medinah, by the Prophet (pbuh). In today's decadent society, people would tend to exploit a mentally weak person. In the Islamic society, on the other hand, a physically or mentally weak person would be treated with sympathy, kindness and care. People would give him concession rather than exploit him. The simple announcement, "there is no deceit in our religion," ensured that one would not be cheated and would be given concession. The simplicity itself would act as a safeguard.

Maintenance

To meet his needs, a handicapped person would be supported by his father. In the absence of father, close relatives would bear his expenses. If there are no such relatives, Islamic state would support him.²

The Islamic state would try to meet other needs of the handicapped as well, in addition to the basic ones. Saeed bin Yarboogh was a companion of the Prophet (pbuh). His eye sight had gone. Omar went to enquire after him and advised him to pray in congregation and join Friday prayers. He told Omar that he had no attendant to escort him to mosque. Omar arranged for an attendant, for him.³

One may realize the sensitivity displayed by Islamic state. The state that takes cares to provide an attendant to a blind man, would certainly meet his basic needs.

¹ Bukhari, Kitab al-Buyu', Muslim, Kitab al-buyu'

² See: Hidayah with Fath al-Qadeer

³ Al-Isabah fi Tamyeez al-Sahabah: 3/98, Kanz al-Ummal: 8/198

Chapter 8

Right of Defense

It is a universally acknowledged right that one may defend oneself against aggression of any kind, from any quarter. This right of self-defence has been accepted as legitimate by all reasonable people as well as by ruling dispensations and legal systems across the world. Denial of this right would invariably promote injustice. Compromise with injustice encourages the oppressor. Whenever victims have been compelled to meekly accept excesses of oppressors, injustice has grown. Victims themselves then come to view injustice as natural and part of their destiny. Right to defend themselves then disappears even from their imagination. They begin to regard themselves as even more helpless than they actually are. Cowardice becomes their second nature.

It must be realized that acts of defence before they are undertaken; require careful consideration. Because some times, in the name of defence, excesses may be committed by the defenders, leading to unjustified bloodshed and violation of norms. In today's world, it is alleged by irresponsible sections of media that defensive actions undertaken in the name of Islam have caused unwarranted bloodshed. On the basis of this unproved allegation, Islam itself is being maligned by some and sections of world opinion deny Muslims even the right of self-defence. In such a situation, it is necessary to clearly state Islamic view on the matter.

Islam regards the right to defend oneself as a basic right available to all human beings. But in defensive retaliation, one is not permitted to commit injustice. Islamic teaching is unequivocal that one should not unjustifiably raise one's hand against another human being; nor should one permit anyone else to raise a hand against him. One should not surrender to the oppressor but face him boldly. Islam does not approve of cowardice due to which a person bows down meekly before his enemies and does not resist them to prevent loss of life and wealth. However Islam has prescribed reasonable norms for defence. Islamic scholars have presented the details of the Islamic law, in this regard.

The subject of defence has invited controversies, so one must carefully consider its various aspects. The discussion here would be confined to personal defence only. The subject of a state defending itself against possible aggression by another state; will not be considered here.

One Killed while Defending Oneself is Martyr

The Prophet (pbuh) clarified on a number of occasions that a person must protect his life, wealth, faith, property, dwellings, family and kin against aggression. He should be prepared to die in this effort of defence; if killed he would be a martyr; and martyr in Islam, has a very exalted status.

According to Saeed bin Zaid, the Prophet (pbuh) said:

من قتل دون ماله فهو شهيد، و من قتل دون دينه فهو شهيد، و من

قتل دون دمه فهو شهيد، و من قتل دون أهله فهو شهيد۔

"One killed protecting one's wealth is martyr. One killed protecting one's faith is martyr. One killed for

*defending one's life is martyr and one killed defending one's kin is martyr."*¹

Abu Hurairah has reported that the Prophet (pbuh) was asked, "A person tries to take away my wealth; what should I do?" The Prophet (pbuh) said, "Let him not do so." The person asked, "if he starts fighting me, what should I do?" The Prophet (pbuh) said, "Resist him." The person said, "What if he kills me!" The Prophet (pbuh) said "you would be a martyr." The person said, "What if I kill him?" The Prophet (pbuh) replied, "He would be put in hell fire."²

Thus a person is obliged to make all efforts to protect his life, wealth and honour. To do so, he may seek help of neighbours, larger society and the state. Once a person asked the Prophet (pbuh), "If some people try to take away my wealth, what should I do?" The Prophet (pbuh) replied, "Remind them of Allah and tell them to desist." The person said, "If they do not desist, what should I do?" The Prophet (pbuh) replied, "Seek the help of believers nearby." The person then asked, "What should I do if there are no believers nearby?" The Prophet (pbuh) said, "Seek the help of state machinery." The person asked, "If I am unable to approach the state, what should I do?" The Prophet (pbuh) said, "Stand up to defend your wealth, though you be alone; till you are killed to achieve martyrdom or you succeed in protecting your wealth."³

Such instructions of the Prophet (pbuh) are explicit in their import. A man should be prepared to die; defending himself and protecting his wealth, honour, family and faith. If killed, he would be martyr. If on

¹ Tirmizi, Kitab al-Diyaat, Nasai, Kitab al-Muharabah, Abu Daud, Kitab al-Sunnah

² Muslim, Kitab al-Iman

³ Nasai, Kitab al-Muharabah

the other hand, the aggressor is killed, the aggressor would deserve hell fire. Aware of such teachings, a believer would not meekly surrender to an aggressor; indeed the aggressor also would not easily dare to attack such a bold person. The famous scholar Shaukani has noted the following:

و أحاديث الباب مصرحة بأن المقتول دون ماله و نفسه و أهله و دينه شهيد و قاتله اذا قتل في النار لأن الأول محق والثاني مبطل.

*"Such instructions of the Prophet (pbuh) tell us that a person killed, while defending his wealth, life, family or faith would be martyr. The killer would be in hell because the victim was justified (in defending himself) while the aggressor's action was unjustified."*¹

Defence As Legal Right

In Islam, it is the legal right of every one to defend himself. He cannot be prevented from exercising this right. Scholars have clarified that there is no blame on the defender for the injuries suffered by the aggressor. The defender will not be chastised or fined for such injuries. The Scholar of Hadith, Ibn Battal has referred to the Hadith that "one killed during defence is martyr." From this Hadith, he has deduced that "if the

¹ Shawkani, Nail al-Awtaar: 6/75. As quoted by Ibne Hajar: Fath al-Bari 5/76. "This argument is not very strong. Properly speaking, a martyr is one who is killed fighting in the way of Allah. He will deserve Allah's reward for martyrdom. Other relevant rulings would apply to him e.g. his body will not be bathed, before burial. Other persons are also given an status equivalent to that of martyrs, in some cases. They would get Allah's reward but other legal rulings (particularly for martyrs fighting in the way of Allah) would not apply to them. (For details, please refer to commentary on Muslim by Navavi, volum 1, chapter2). The two categories of martyrs are not exactly identical. As for the right of defense, the jurists are unanimous about defense being permissible. Details are given in subsequent sections of this chapter.

aggressor is killed, there would be no claim for retribution.”¹

Self Defence

According to Shafae, “If a person is attacked or his family and wealth are attacked, he is entitled to defence. If as a result, the aggressor is killed; no claim may be made for retribution or blood money.”²

According to Hanafi school of Jurisprudence, “If a murderous attack is made on a person and if he has no option but to kill the aggressor, he may kill him to save himself. There would be no blame on him. To attack a Muslim is equivalent to attacking them all. As the aggressor attacking a group is liable to be killed; similarly one attacking an individual would also be killed.”³

Right of self defence may be exercised, whether one is attacked by single individual or by a group. Ibn Taimiyah says:

*“If dacoits attack a person murderously, he should resist them. He may kill them in self defence. Scholars are unanimous on this.”*⁴

Is Defence Obligatory?

A question that may arise is; “Is it merely permissible to kill the aggressor in self defence (if no other option is available) or is it obligatory to do so?” According to Hanbali School of jurisprudence, this is a permitted action. It is not necessary for a person to exercise this right. Ibn Qudamah says:

¹ Ibne Hajar, Fath al-Bari: 5/76

² Ibid

³ Ibne Abidin, Rad al-Muhtaar: 5/481

⁴ Ibne Taimiyah, Fataawa: 34/242

*"A person is entitled to defend himself and his wealth. If he (in the absence of any other option) kills the aggressor, there would be no blame. But this defence is not obligatory."*¹

Ibn Taimiyah has quoted both opinions. He says:

"Self defence has been considered permissible by some and obligatory by others. If a man may save himself by killing the aggressor, he is obliged to do so. Otherwise, he would be committing a sin."²

Defending One's Wealth

A person is also entitled to defend his wealth, as he may defend his life. Once Abdullah bin Omar spotted a thief and pulled out his sword to kill him. If people had not restrained him, he would have killed the thief.

Hasan Basri was asked, "If a thief enters my house with a weapon, may I kill him? He replied, "Yes! You may kill him in whatever way you can."

Ahmad bin Hanbal says, if dacoits want to kill you or loot your wealth, fight them to protect your life and wealth."

Ibn Sireen says, "As far as I know, no one has refrained from fighting the dacoits or the transgressor of Harooriya sect because they considered such fighting sinful. They may have refrained simply due to cowardice."³

According to Hanafi School of law, "If a thief has entered a house and is stealing things or trying to steal them the house owner may kill him. The thief may also be chased if he tries to escape with stolen goods; He

¹ Ibne Qudamah, Al-Mughni: 12/533-534

² Al-Kifayah ala al-Hidayah: 5/1264

³ Ibne Qudamah, Al-Mughni: 12/531-533

may be killed during the chase. There would be no blame on owner if he kills the thief.”¹

A question may arise about the worth of the goods involved in stealing. Can a person also defend a meagre amount of wealth or is there a prescribed minimum? Imam Navavi says in this regard:

“If one’s wealth is being snatched away unjustifiably, the owner should resist and may even kill the aggressor; irrespective of the amount of wealth involved. The amount may be large or small, because the Prophet (pbuh) has not specified any minimum amount (for entitlement of defence): “This is the opinion of most of the scholars. Some students of Imam Malik are of the opinion that a thief or dacoit may not be killed for a small amount of wealth. But the correct opinion is the one held by majority of scholars.”²

One opinion in Hanafi law is that the amount of wealth should not be less than ten dirham. In another opinion, the amount should be such that zakat may become payable on it. For lesser amounts, the aggressor would be resisted but not killed. However the preferred opinion in Hanafi law is that the aggressor may be killed even for a small amount, because Prophetic instructions are general in import.³

Ibn Taimiyah says: “If dacoits try to loot one’s wealth, scholars agree that he is not obliged to surrender even a small amount of wealth to them. To the extent possible, he should try to scare them away. However if such attempts do not succeed, he may fight

¹ Jassas, Ahkaam al-Qur’an: 2/40, Marghinani, Hidayah: 4/565, Ibne Abidin, Rad al-Muhtaar

² Navavi, Sharh-Muslim, Vol.1, p.140

³ Ibne Abidin, Rad al-Muhtaar: 5/482

them to protect his wealth. If a dacoit is killed, his blood will be worthless; no claim would lie on the defender."¹

The usual opinion of the scholars seems reasonable because worth of goods depends on the owner. For a poor person, the worth of ten dirhams may be more than the worth of hundred dirhams for another person, who is rich.

Is Defence of Wealth Obligatory?

Ibn Taimiyah says in this regard:

*"Defence of one's wealth is not obligatory. One may choose not to resist the dacoits and simply give up one's wealth."*²

Imam Navavi says:

*"Defence of wealth is permitted but is not obligatory."*³

Some scholars are of the view that to defend one's wealth is also obligatory i.e. one must resist the aggressor to protect one's possessions. Perhaps they have deduced this ruling from Prophet's instruction quoted by Abu Hurairah. In it, people are instructed to resist an aggressor and not to give up their wealth.⁴

Defence of Family

Family ties are closest of human relations; with a number of ethical and legal implications attached to them. If one's family is in distress, one is expected to respond and help it and spend from one's wealth to render assistance. Within legal boundaries, one must also defend one's family. The Prophet (pbuh) said:

¹ Ibne Taimiyah, Fataawa: 34/243

² Ibid

³ Navavi, Sharh Muslim, Vol.1, p.141

⁴ Shawkani, Nail al-Awtar: 6/75

خيركم المدافع عن عشيرته مالم يأثم-

*"A virtuous man among you is one who defends his family, as long as he does not commit a sin."*¹

Manavi notes in this regard that:

--- فيرد عنهم من ظلمهم في مال أو عرض أو بدن --- مالم يظلم

المدافع في دفعه بأن تعدى الحد الواجب في الدفع-

*"conduct of a virtuous man has been mentioned in this Hadith. He defends his family, its wealth and honour. His conduct is praise worthy as long as he does not commit any excesses."*²

Imam Navavi says:

وأما المدافعة عن الحريم فواجبة بلا خلاف-

*"There is no disagreement among scholars that one is obliged to defend one's family, when needed."*³

Defence of Honour

Woman's modesty should be protected; one must strive to defend her modesty at all costs. There would be no blame for an injury caused to the aggressor during such defence. The ruling on Hanafi law is the following:

*"If a person criminally attacks a woman to outrage her modesty and is not scared away by shouting or resisting; then the woman may kill him. The blood of the aggressor would be worthless. A minor boy subjected to criminal assault may also kill the aggressor to save himself."*⁴

Imam Ahmad was asked about the case of a woman, killing an offender to save her modesty. He said,

¹ Abu Daud, Kitab al-Adab

² Munawi, Al-Taiseer bi sharh Al-Jami al-Sagheer: 1/534

³ Navavi, Sharh Muslim, Vol. 1, p.81

⁴ Alauddin, Durr al-Mukhtaar: 3/248

"If she is convinced of his intention to rape her, she may kill him. She will not be held to account."

He mentioned a ruling by caliph Omar in a similar case. In Omar's time, a person tried to rape a woman; she killed him with a stone Omar said,

*"by Allah, no blood money will be paid for this killing."*¹

Ibn Qudamah says that a woman must defend herself against criminal assault; it would be sinful for her not to do so. If she does not resist, she would be providing an opportunity to the offender.²

Cooperation in Defence

Islam has laid out the ethical duty of every one to help and defend a person under attack. To save the victim, a bystander may even kill the aggressor, if necessary. All such defensive acts should of course be within legal limits.

Ibn Qudamah says:

*"If an offender attacks a person's life or wealth or tries to rape a woman, then other people (not directly under attack) should help the victims. If dacoits attack a caravan, then others (not in the caravan) are permitted to help those under attack. The Prophet (pbuh) has advised believers to help one another. He said that "Indeed believers help one another against mischief makers." If people do not help one another against aggressors, all of them would be rendered unsafe. If dacoits loot a person and no one comes forward to help the victim, they would all be looted, in turn."*³

In Hanafi law, the ruling is:

¹ Ibne Qudaamah, Al-Mughni: 12/533

² Ibid

³ Ibid: 12/534-535

*"If murderous attack is made on a person, a bystander is permitted to kill the aggressor. There would be no blame on him. In all such cases, the legal requirement is that no one is needlessly killed."*¹

It may happen that on aggressor, after launching on attack runs away and there is no apprehension of another attack from him. Then the victim of the attack or bystander is not permitted to chase the aggressor and kill him. Such an action would invite retribution.²

If a thief tries to break into some one's house and is not scared away on shouting, it is permissible to kill him.³

If an offender is trying to criminally assault a woman and is not scared away by mere shouting or beating with a stick, it is permissible to kill him. However, if possible, one should scare him away without killing him.⁴

Similar rulings would apply to other major offences which may cause grievous harm, to people and to excesses publicly committed. A citizen may use this option with due discretion, while the state must decisively act to prevent major crimes.⁵

If a person launches an armed attack on a locality or indulges in looting and robbery; it is incumbent on everyone to restrain him. If he does not desist, he may be killed; for which there would be no blame. Author of Hidayah has referred to the following ruling inferred from Prophet's instructions:

من شهر على المسلمين سيفاً فقد أطلّ دمه.

¹ Alauddin, Durr al-Mukhtar: 5/481

² Ibid, p.482

³ Ibid

⁴ Ibid, p.248

⁵ Ibid, p.249

*"One, who takes up arms against Muslims, loses the sanctity of his blood."*¹

A person revolting against Islamic state may also be killed, if necessary. In general, killing of an offender is permitted, when the contemplated crime cannot be prevented by any other means.²

According to Hanafi law, the ruling also applies to use of arms against non Muslim citizens of the Islamic state.³ If an offender (Muslim or non Muslim) launches armed attack on non Muslim citizens of the Islamic state and is not restrained by milder measures, it would be obligatory to kill him.

No Blame for Injury Caused to Aggressors

As mentioned above; a serious crime if imminent should be prevented, even by killing the offender, if necessary. Short of killing, it may be necessary to cause him lesser injury. In any case, there would be no blame on the defender, for any injury caused to the offender.

Imran bin Haseen has narrated an incident. There erupted a fight between two persons and one of them bit the other's hand. The victim pulled his hand away and two teeth of the offender fell out. The matter was brought before the Prophet (pbuh). One who had lost his teeth demanded compensation. The Prophet (pbuh) refused and said,

¹ This version of the narration does not appear in Hadith books. However narrations with the same important are quoted by Nasai, Ishaq, Hakim and Tabrani etc. For instance, Nasai quotes; "One who raises one's sword for bloodshed, then his (own) blood will be worthless." For details one may refer to "Ad diraya fi takhreej abadith al hidayah."

² Marghinani, Hidayah: 4/564

³ Ibne Abidin, Radd al-Muhtar: 5/481

*"One of you bites the other like a camel and expects that the victim will keep quiet! You do not deserve any compensation."*¹

Scholars like Abu Hanifa, Shafaee and Ahmad bin Hanbal have deduced from the above incident that if a person bites another and loses his teeth, when the victim resists; the offender cannot claim any retribution or compensation.

Imam Malik has differed from the above ruling but Ibn Hajar has refuted his arguments. Perhaps Imam Malik was not aware of the above incident.² Some Maliki scholars regard Imam Malik's opinion as contextual. They say that

*"If a person is bitten by another and the victim deliberately pulls out the offender's teeth, the victim will be liable to pay compensation. However if he does not intend to pull the teeth out but inadvertently does so to save himself, he is not liable to pay compensation."*³

Ibn Hajar has a similar opinion. He says:

*"According to majority of scholars; if a person is attacked and bitten and he pulls out offender's teeth, he is not to be blamed provided two conditions are met. One that the offender's bite is serious enough to cause pain. Secondly it was not possible for the victim to save himself by some other means except pulling offender's teeth out. For instance, slapping the offender would not have worked. If milder measures were available, the defender would not be entitled to pull the offender's teeth out."*⁴

Some scholars have prescribed graded measures of defence, to be adopted in a particular order. Ibn Qudamah

¹ Bukhari, Kitab al-Diyaat, Muslim, Kitab al-Masaamah wa al-Muharibeen

² Navavi, Sharh Muslim, Vol.6, p.133, Ibne Hajar, Fath al-Bari: 12/180

³ Ahmad al-Darder, Al-Sharh al-Sagheer ala Aqrab al-Masaalik: 4/506

⁴ Ibne Hajar, Fath al-Bari: 12/180

considers such suggestions irrelevant as they may cause unnecessary complications.¹

Some scholars of Shafae School have also considered the matter and given the following opinion:

*"A person being bitten has an unconditional right to pull his hand away (though the offender's teeth may also fall out during the process). He is not obliged to try milder measure to defend himself"*²

If a person is bitten, he may retaliate by hitting the offender anywhere on his body. Ibn Hajar says:

ولو جرحه المعضوض في موضع آخر لم يلزمه شيء-

*"A person being bitten is allowed to cause injury to the offender, in any part of the body. There would be no blame on him, for a possible injury."*³

Biting is one form of attack. A person is similarly entitled to defend himself against any other form of attack. In principle, he is not to be blamed if he injures the offender, while defending himself. Such injuries may be minor or major; the offender may even be killed.

Ibn Hajar says:

فيه دفع الصائل، وانه اذا لم يكن الخلاص منه الا بجناية على نفسه أو على بعض اعضائه ففعل به ذلك كان ممدوحا-

*"In Prophet's teachings, right of self defense is clearly granted to anyone under attack. If defence is not possible except by injuring or killing the offender; causing of such injury will be allowed. There will be no liability on the defender, for any such injury."*⁴

Ibn Qudamah says:

¹ Almughni: 12/538-539

² Shawakani, Nail al-Awtaar: 7/172

³ Fath al Bari: 12/180

⁴ Ibid

*"A person under attack is entitled to defend himself. To do so, he may bite or hit the offender. He is not liable for any injury thus caused."*¹

In Musnad Ahmad, the following Hadith has been quoted;

*The Prophet (pbuh) said, "Resist them. If you are killed, you will go to paradise. If you kill the offender, he will be in hell fire."*²

² Musnad Ahmad: 2/339, Nasai, Kitab Tahreem al-Dam

From this Hadith, it has been deduced that before resorting to combat, milder measures should be adopted for defence.¹

This principle implies that milder means of defence should be employed first. If such measures do not suffice, harsher measures are permitted. For instance, if an offender may be scared away merely by shouting, he will not be beaten with stick. If hitting with a stick may dissuade him, he will not be attacked with a sword. Shawkani says:

ينبغي تقديم الأَخَفِّ فالأَخَفِّ فلا يعدل المدافع الى القتل مع إمكان
الدفع بدونه، ويدل على ذلك أمره صلى الله عليه وسلم بإنشاد الله
قبل المقاتلة.

*"Defence should begin with the mildest possible measure than harsher means may be adopted. If defence is at all possible without killing the offender, killing is not permitted, because the Prophet (pbuh) has instructed that the offenders should first be reminded of Allah."*²

Ibn Qudamah says that an intruder may be scared away by warning or shouting. Then the house owner is not allowed to kill him; because the objective is to get rid of the offender. By similar reasoning, if use of stick is enough for defence, use of arms would not be permitted. If a minor injury may immobilise the offender, killing him would not be allowed. However in spite of such caution, if the offender is killed in combat, his blood will be worthless. There will be no blame on the defender because fighting had been initiated by the offender; in a sense the offender would be deemed to have killed himself.³

¹ Shawkani, Nail al-Awtaar: 6/74

² Shawkani, Nail al-Awtaar: 6/75

³ See for details: al-Mughni: 12/531-532

The ruling of Hanafi law is:

*"If an intruder breaks into a house and starts looting it, the house owner may kill him. If he runs away with stolen goods, he may be chased and even killed when there is no other way to recover the goods from him."*¹

Another ruling advises caution, in this regard:

هَذَا إِذَا لَمْ يَعْلَمْ أَنَّهُ لَوْ صَاحَ عَلَيْهِ طَرَحَ مَالِهِ وَأَنْ عِلْمُهُ ذَلِكَ فَقَتَلَهُ
مَعَ ذَلِكَ وَجِبَ عَلَيْهِ الْقَصَاصُ-

*"To kill a thief is permitted only when the owner does not know that the thief will give up stolen goods on raising an alarm. But if he knows that recovery of goods is possible merely by scaring the thief with an alarm; he will not be permitted to kill the thief. For unnecessarily killing the thief in such circumstances, retribution will be due."*²

The legal ruling about armed attack against citizens of Islamic state, has been mentioned earlier. Hanafi law says; in this regard:

وَيَجِبُ دَفْعُ مَنْ شَهِرَ سَيْفًا عَلَى الْمُسْلِمِينَ وَلَوْ بَقَتْلِهِ إِنْ لَمْ يُمْكِنْ دَفْعُ
ضَرْرِهِ إِلَيْهِ-

"It is necessary to get rid of armed offenders who attack Muslims even by killing them if necessary (in the absence of milder options)."

The reason for the above ruling is clear. To get rid of armed offenders is obviously the actual objective of defence. If the objective may be achieved without killing the offenders, killing will not be resorted to. Indeed killing the offenders would be the last option, if other measures fail, to stop their aggression.³

¹ Marghinani, Hidayah:4/565

² Ibne Abidin, Radd al-Muhtaar: 5/486

³ Ibid: 5/481

Appropriate Defence According To Circumstances

Thus legality of a particular act of defender would depend on circumstances. If an armed person attacks one, with a weapon, with intent to kill, the victim may kill the aggressor in self defence. The attack might have taken place in a locality or in a secluded spot, at night or during day; the same ruling will apply in any case, because delay in defence may prove fatal for the victim. But if a person is attacked merely with a stick, the attack will not ordinarily be fatal. In that situation, if the attack occurs during daytime in a locality, the defender is not allowed to kill the offender, because he may summon people to help him and his life is not in immediate danger. If the attack takes place at night or at a secluded spot, the victim may even kill the aggressor, because immediate help is not likely. A person attacked with a heavy stick, which could cause death, is also entitled to kill the offender to save himself. This opinion is ascribed to Abu Yousuf and Imam Muhammad and according to them, the ruling would apply irrespective of the time of attack; it could be day or night.¹

In defence of one's possessions, one may kill the thief, if he is not likely to be scared away on raising an alarm. If he can be scared away he should not be killed; otherwise retribution would be due.²

Evidence Required for Defensive Action

To establish legality of defensive action, evidence is needed. Ibn Qudamah says:

"If a person claims that an intruder broke into his house and could not be scared away; so he was killed,

¹ Marghinani, Hidayah: 4/564

² Durr al-Mukhtar: 5/282

*then his claim would not be accepted, in the absence of credible evidence; and retribution will due. It doesn't matter that the intruder might be a notorious criminal. Witnesses would have to give evidence that the intruder was seen in possession of arms, advancing towards the house owner and the latter killed him in self defence. On the other hand, if the witnesses report that the intruder was merely seen going towards the house and no mention is made of weapons, then retribution will not be waived off. Mere intrusion does not justify killing of an intruder."*¹

However circumstances may arise when there are no witnesses available. In looking for witnesses, a fatal delay might occur. Hanafi law says the following in this regard:

*"If a person presents evidence that he resisted the intruder and the intruder did not back away so he killed him then no retribution will be due. If no such evidence is forthcoming, the back ground of the intruder would be investigated. If there is no criminal back ground, his killing would invite retribution. If he was notorious as a criminal, then claim for retribution may still be entertained but payment of blood money would be more reasonable, because circumstances have made the case doubtful."*²

It may happen that two persons may injure one another in a scuffle and each may claim self defence. Ibn Qudamah says that both will be asked to take oath that they are speaking the truth. An injured person who takes such an oath will be entitled to compensation.³

¹ Al-Mughni: 12/536-537

² Ibne Abidin, Radd al-Muhtaar: 5/482

³ Al-Mughni: 12/537

Defence is Permitted Only at the Time of Attack

Defensive action is permitted only at the time of attack. Later retaliation is not permitted. If an aggressor backs away after attack and another attack by him is not likely, then to chase and kill him is not allowed.¹ Such an action would invite retribution, because due to his backing away, the aggressor's legal status has changed. While retreating, if he appears poised for another attack, it would be permissible to kill him.²

Conclusion

Islam encourages the oppressed to be courageous and bold; they should stand up against oppression and aggression from any quarter. A victim of oppression should not depend on others' magnanimity for the protection of his life, wealth, honour, faith and kin. Moreover Islam teaches the whole society to help victims of aggression and thus eliminate injustice of any kind, from society. Actions of defence undertaken individually or collectively are accorded legal protection by Islam so that the oppressed are not rendered helpless legally. On the other hand, Islam also ensures that the oppressed do not become oppressors in their turn and do not commit excesses, in the name of defending themselves.

¹ Hidayah: 4/565

² Ibne Abidin, Radd al-Muhtar: 5/462

Chapter 9

Religious Freedom

A question frequently discussed nowadays is of rights of non-Muslims in Islamic state. Often it is alleged that in an Islamic state, they will be compelled to lose their religious identity and follow Islamic laws. Hence it is necessary to clarify the Islamic view point in this regard.

No Compulsion in Religion

Islam presents itself as the religion revealed by God. It is the only true religion existing today; other religions may have some elements of truth in them. During course of history, they have actually become an amalgam of truth and falsehood. They cannot therefore be relied upon to provide guidance to humanity. Islam presents this view about religious multiplicity, with cogent arguments. But even then it does not compel any one by force, to accept Islam; the freedom to accept or not to accept Islam has clearly been acknowledged.

The Prophet (pbuh) charged with missionary zeal, naturally wished all people to accept Islam since it was the religion revealed by Allah. The Creator ---Allah --- however pointed out to the Prophet (pbuh) that due to freedom of choice available to man; not everyone would actually embrace Islam. To compel people to adopt a particular path and deny them the freedom of choice is contrary to Allah's plan. If God had so

willed, He, Himself would have compelled every human being to accept His revealed religion. But God did not choose to do so; rather He gave man the freedom to accept or reject the revealed religion. This freedom given by God cannot be snatched away by anyone else. The Qur'an says:

وَلَوْ شَاءَ رَبُّكَ لَأَمَنَّ مَنْ فِي الْأَرْضِ كُلَّهُمْ جَمِيعًا أَفَأَنْتَ تُكْرِهُ النَّاسَ حَتَّى

يَكُونُوا مُؤْمِنِينَ ﴿٩٩﴾ (يونس)

"if it had been your Lord's will, they would all have believed ---all who are on Earth. Will you then compel people, against their will to believe (in the revealed message)?"
(Qur'an ch.10, v.99)

وَإِنْ كَانَ كِبُرُ عَلَيْكَ إِعْرَاضُهُمْ فَإِنْ اسْتَطَعْتَ أَنْ تَبْتَغِيَ نَفَقًا فِي الْأَرْضِ أَوْ
سُلَامًا فِي السَّمَاءِ فَتَأْتِيَهُمْ بِآيَةٍ وَلَوْ شَاءَ اللَّهُ لَجَمَعَهُمْ عَلَى الْهُدَى فَلَا تَكُونَنَّ
مِنَ الْجَاهِلِينَ ﴿١٠٠﴾ إِنَّمَا يَسْتَجِيبُ الَّذِينَ يَسْمَعُونَ وَالْمَوْتَى يَبْعَثُهُمُ اللَّهُ فَرَّ إِلَى اللَّهِ
يَرْجِعُونَ ﴿١٠١﴾ (الأنعام)

"If their spurning (truth) is hard on you and if you are able to seek a tunnel in the ground or a ladder to the skies then bring them a sign. (You must know that) if it were Allah's will, He would have gathered them together, on true guidance. So be not among the ignorant. Those who listen sincerely (to message of truth) will surely accept it. And as to the dead, Allah will raise them up (at an appointed time); then they will be returned to Him."
(Qur'an, ch.6, v.35, 36)

The Qur'an has declared that there is no compulsion in religion:

لَا إِكْرَاهَ فِي الدِّينِ قَدْ تَبَيَّنَ الرُّشْدُ مِنَ الْغَيِّ فَمَنْ يَكْفُرْ بِالطَّاغُوتِ وَيُؤْمِنْ
بِاللَّهِ فَقَدْ اسْتَمْسَكَ بِالْعُرْوَةِ الْوُثْقَىٰ لَا انْفِصَامَ لَهَا وَاللَّهُ سَمِيعٌ عَلِيمٌ ﴿١٠٢﴾ (البقرة)

"Let there be no compulsion in religion. Truth stands out clear from error. So, wherever rejects the

transgressor and believes in Allah, has indeed grasped the most trustworthy hand-hold that never breaks. And Allah hears and knows all." (Qur'an, ch.2, v.256)

Obviously Islam wants that no hurdle be placed in people accepting it. Whoever wants to embrace Islam should be allowed to do so; to prevent him from embracing Islam would be contrary to freedom of thought and conviction. A person in this world is free to adopt any way of life; so reason demands that he be free to accept Islamic way of life also. Unfortunately, opponents of Islam have often adopted an unreasonable stance in this regard; they deny freedom of thought and forcibly stop people from coming to fold of Islam. There is no rationale for the double standards that they employ. Such compulsion by them to prevent people from accepting the truth is totally unjust and would invite the wrath of God. Those forcibly preventing people from adoption of true religion will not be able to escape God's chastisement on the day of judgement. The Qur'an says:

إِنَّ الَّذِينَ كَفَرُوا وَصَدُّوا عَنْ سَبِيلِ اللَّهِ قَدْ ضَلُّوا ضَلَالًا بَعِيدًا ۝ إِنَّ الَّذِينَ كَفَرُوا وَظَلَمُوا لَمْ يَكُنِ اللَّهُ لِيُغْفِرْ لَهُمْ وَلَا لِيَهْدِيَهُمْ طَرِيقًا ۝ إِلَّا طَرِيقَ جَهَنَّمَ خَالِدِينَ فِيهَا أَبَدًا وَكَانَ ذَلِكَ عَلَى اللَّهِ يَسِيرًا ۝ (النساء)

"Those who reject faith and keep off people from the way of Allah have indeed strayed far away from the path. Those who reject faith and oppress people. Allah will not forgive them nor guide them to anyway, except the way of Hell. They will dwell therein for ever; and this is easy for Allah (to do)."

(The Qur'an, ch.4, v. 167-169)

The Quran has narrated the history of Allah's messengers and other pious people; often they were not allowed by oppressors of their time, to follow the revealed religion and present it to people. They were

denied the right to propagate the message of truth while people were forcibly stopped from accepting the message. One instance of such coercion relates to Prophet Ibraheem (A.S). He was thrown into fire, by the intolerant oppressors of his community! Similarly, plans were made by opponents of truth, to kill Prophet Moses (A.S). Accordingly such plans were announced by Pharaoh to kill Prophet Moses (A.S). Then a believer raised his voice against such highhandedness of Pharaoh. The Qur'an has quoted the believer who said:

اتَّقُوا رَجُلًا أَن يَقُولَ رَبِّيَ اللَّهُ وَقَدْ جَاءَكُمْ بِالْبَيِّنَاتِ مِنْ رَبِّكُمْ وَإِن يَكُ
كَاذِبًا فَعَلَيْهِ كَذِبُهُ وَإِن يَكُ صَادِقًا يُصِيبْكُمْ بَعْضُ الَّذِي يُوعَدُكُمْ إِنَّ اللَّهَ لَا
يَهْدِي مَنْ هُوَ مُسْرِفٌ كَذَابٌ ⑤

(مؤمن)

"will you kill a man because he says "My Lord is Allah.

And he has indeed brought before you clear signs from your Lord. If he is a liar, on him is the sin of his lie. But if he is telling the truth then surely some of the calamity, of which he warns you; will fall on you. Indeed Allah does not guide a person who is transgressor and liar." (Qur'an, ch.40, v.28)

Life history of Prophet Moses (A.S) also includes another relevant incident. When he presented Allah's message and showed clear signs to people, then magicians were summoned by Pharaoh to challenge Moses. Magicians however soon realised that Prophet Moses (A.S) was indeed speaking the truth and the clear signs brought by him could not be countered by tricks of magic. They then accepted the truth and announced their belief in the prophethood of Moses. Pharaoh was enraged at this turn of events and his anger rose so much that he threatened the magicians

that their limbs will be cut off and they would be hanged to die. The magicians, who had been transformed into sincere believers, faced these threats calmly. The Qur'an says:

قَالُوا إِنَّا إِلَىٰ رَبِّنَا مُنْقَلِبُونَ ﴿٦١﴾ وَمَا نُنْقِصُ مِثْلًا إِلَّا أَنْ أَمَرًا بِأَيِّتِ رَبِّنَا لَنَا
جَاءَتْهُمْ رِبِّيًّا أَفْرَعٌ عَلَيْهِمَا صَيْرًا وَتَوَفَّيْنَا مُسْلِمِينَ ﴿٦٢﴾ (الأعراف)

"(When Pharaoh threatened the magicians) they said, 'We will indeed be sent back to our Lord. But you wreak your vengeance on us simply because we believed in the signs of our Lord, when they reached us. Our Lord! Pour out on us, patience and constancy, and take our souls to you, as Muslims.'"

(The Qur'an, ch. 7, v. 125, 126)

Yet another incident of intolerance mentioned by the Qur'an, is of people thrown by oppressors, into a pit of fire; because they had declared their faith in God---the supreme Lord of heavens and earth. The Qur'an says:

قِيلَ أَضْحَبُ الْأَخْدُودِ ﴿٦٣﴾ النَّارِ ذَابَ الْوَقُودُ ﴿٦٤﴾ إِذْ هُمْ عَلَيْهَا قُعُودٌ ﴿٦٥﴾ وَهُمْ عَلَىٰ
مَا يَفْعَلُونَ بِالْمُؤْمِنِينَ شُهُودٌ ﴿٦٦﴾ وَمَا نَقَبُوا مِنْهُمْ إِلَّا أَنْ يُؤْمِنُوا بِاللَّهِ الْعَزِيزِ
الْحَمِيدِ ﴿٦٧﴾ الَّذِي لَهُ مُلْكُ السَّمٰوٰتِ وَالْأَرْضِ وَاللَّهُ عَلَىٰ كُلِّ شَيْءٍ شَهِيدٌ ﴿٦٨﴾ (البروج)

"Woe to the makers of the pit of fires, which was supplied (abundantly) with fuel. Behold, they sat over the pit and witnessed all that they were doing against the believers. And they ill treated the believers for no other reason than that they believed in Allah, exalted in power, worthy of all praise. To him, belongs the dominion of the heavens and the earth and Allah is witness to all things." *(Qur'an, ch. 85, v. 4-9)*

The Qur'an has also mentioned the ordeal faced by people of the cave. They were youth who were not allowed by rulers of the time to openly profess their faith in God. They were compelled to leave their town

and take refuge in a cave. Allah through his extraordinary might, caused them to sleep for hundreds of years. When finally, they woke up after their long sleep; they started talking about food to be brought from town, exercising due caution. The reason for caution has been mentioned in the Qur'an during their discussion, they said:

إِنَّهُمْ إِنْ يَظْهَرُوا عَلَيْكُمْ يَرْجُمُوكُمْ أَوْ يُعَذِّبُوكُمْ فِي مِلَّةِهِمْ وَلَنْ تُفْلِحُوا إِذًا
 أَبَدًا ۝ (الكهف)

"(In getting food, you must be cautious)' because if they (i.e. the rulers) get to know about you,' they would stone you or (otherwise) force you to return to their religion. And if that happens, you will never attain success." (Qur'an, ch. 18, v. 20)

Clearly, the youth were facing very difficult circumstances and were apprehensive of imminent persecution. It is Islam's objective to eliminate such persecution from human society.

Reverence for Messengers of Allah

Since the dawn of history, Messengers have been sent by Allah in various regions of the world. The Qur'an states that Messengers were sent to all nations.

إِنَّا أَوْسَلْنَاكَ بِالْحَقِّ بَشِيرًا وَنَذِيرًا وَإِنْ مِنْ أُمَّةٍ إِلَّا خَلَا فِيهَا نَذِيرٌ ۝ (يونس)
"Verily, we have sent you with truth, as Bearer of glad tidings, and as a Warner. And there never were a people, without a Warner being sent to them."

(Qur'an, ch. 35, v. 24)

إِنَّمَا أَنْتَ مُنذِرٌ وَلِكُلِّ قَوْمٍ هَادٍ ۝ (الرعد)

"You (i.e. the Prophet) are indeed a Warner and to every people, we have sent a Guide."

(Qur'an, ch. 13, v. 7)

Some messengers' names have been mentioned in the Qur'an and some have not been mentioned by name. The Qur'an says:

وَلَقَدْ أَرْسَلْنَا رُسُلًا مِّن قَبْلِكَ مِنْهُمْ مَّن قَصَصْنَا عَلَيْكَ وَمِنْهُمْ مَّن لَّمْ

(مؤمن)

نَقُصُّ عَلَيْكَ

"We did send messengers before you. Of them, there are some whose history we have related to you and some whose circumstances we have not related."

(The Qur'an ch. 40, v. 78)

The Qur'an unequivocally states that, in order to be a Muslim, one must believe in all Messengers and affirm faith in them. Some Messengers have been mentioned in Qur'an by name; a true believer therefore bears witness that they were indeed Messengers, mentioning them by name. Some Messengers' names are not mentioned; nevertheless a Muslim, as a matter of principle, declares his faith in them also. Moreover the Qur'an supports and confirms the actual teachings of Messengers and seeks to correct the distortions that have crept therein. Obviously, the nature of faith of a Muslim is such that he will never show disrespect to a Messenger of God.

Rights of Non Muslim Citizens of Islamic State

Islamic state is legally obliged to protect life, wealth and honour of its non Muslim citizens (called zimmi). No excesses from any quarter, will be permitted against them. If they are attacked, the state will defend them. If captured by an enemy, the Islamic state will get them released and liberated. Bukhari's compilation has a chapter on this subject and has quoted caliph Omar's directive on rights of zimmi.¹

¹ Bukhari, Kitab Al-Jihad

Ibn Qudamah has clarified that zimmi cannot be enslaved and their rights will not be compromised. He writes:

*"The Muslim ruler must protect the zimmi that they do not suffer at the hands of enemies or of Muslims themselves."*¹

Right to Practice the Religion of One's Choice

In an Islamic state, followers of all religions will have the right to practice their religion. The state will not interfere in such matters as worship, marriage, divorce and personal law. If necessary, separate courts may be established to decide cases, under their personal law. However, if they, on their own, bring their case before the Islamic court; it will judge the matter according to Islamic law.²

Conversation on Religion

Islam permits people to converse among themselves about religious issues in a serious atmosphere, to arrive at the truth. Exchange of views and debates are allowed. The Qur'an says:

وَجَادِلْهُمْ بِالَّتِي هِيَ أَحْسَنُ
(النحل)

"You may argue with them, in ways that are best and most gracious."

(Qur'an, ch. 16, v. 125)

Qur'an advises people to converse about religion by advancing logical arguments in support of their views. It does not allow anyone to create hatred or ill will on the pretext of religious discussion. During a discussion, if the conversation crosses the limits of

¹ Ibne Qudamah, Al-Mughni: 13/249-250

² See for detail, my article 'Islami Riyasat mein Ghair Muslimon per Islami Qanoon ka Nafaaz kis Had tak hoga' in Sehmahi Taqiqaat-e-Islami, Aligarh, October-December 2004.

civilized debate, it should be postponed, or one should simply get up and leave the venue. The Qur'an says:

وَإِذَا رَأَيْتَ الَّذِينَ يَخُوضُونَ فِي آيَاتِنَا فَأَعْرِضْ عَنْهُمْ حَتَّى يَخُوضُوا فِي حَدِيثٍ غَيْرِهِ، وَإِمَّا يُنْسِيَنَّكَ الشَّيْطَانُ فَلَا تَقْعُدْ بَعْدَ الذِّكْرِىٰ مَعَ الْقَوْمِ الظَّالِمِينَ ﴿٦٨﴾
(الأنعام)

"When you see men engaged in vain discourse about our signs, turn away from them unless they turn to 'a different topic. If Satan ever makes you forget, then after recollection, sit not in the company of transgressor." (Qur'an ch. 6, v. 68)

One can't imagine a more civilized way to discuss religious issues.

Guidelines for Discussion About Religion

During a religious discussion, proper decorum should be maintained; no disrespect may be shown towards God, his Messengers, revealed Books and revered religious personalities. Such disrespect is a cognizable offence and may invite legal action, by the Islamic state.

Ghurfa bin Haarith was a companion of the Prophet (pbuh). While travelling in Egypt, he came across a Christian, whose name was Mandqoom. Ghurfa invited him to Islam but he started abusing the Prophet (pbuh). The matter was reported to Amr bin Aas, who was then governor of Egypt.

The two parties were summoned by the governor and the governor reminded Ghurfa of Muslims' treaty (of peace) with Christians; and that terms of the treaty must be adhered to. Ghurfa said, "I seek Allah's refuge. Treaty with Christians does not permit them to abuse God and His Prophet (pbuh) and injure our sentiments. They may offer prayer in church; we will not interfere in it. They will not be burdened beyond

their capacity. The state will defend them in the event of a war and they may freely practice their religion and abide by their law. However, on their own, if they bring to us their disputes; we will decide them according to Allah's book." Amr bin Aas agreed with Ghurfa and said, "What you said, is right."¹

Scholars are unanimous that disrespect shown towards Islam, or revealed religion in general or Allah's Prophets would invite legal action; irrespective of the offender being Muslim or non Muslim. The penalty suggested is death; however according to Abu Hanifa, abusing the Prophet (pbuh) will not invite death penalty. According to him, a repeated offender may be punished with death.² The penalty may appear to be severe but is necessary to maintain proper respect for religion, in society.

Pagans of Arab did not believe in prophethood; they were not in possession of any revealed book and instead of worshiping one God, they were worshiping idols. In such an atmosphere Islam has instructed its followers to talk to pagans in a suitable way, that their religious sentiments are not provoked. Otherwise, a misguided person among them may even show disrespect towards God, in retaliation. The Quran says:

وَلَا تَسُبُّوا الَّذِينَ يَدْعُونَ مِنْ دُونِ اللَّهِ فَيَسُبُّوا اللَّهَ عَدْوًا بِغَيْرِ عِلْمٍ كَذَلِكَ زَيَّنَّا لِكُلِّ أُمَّةٍ عَمَلَهُمْ ثُمَّ إِلَىٰ رَبِّهِمْ مَرْجِعُهُمْ فَيُنَبِّئُهُمْ بِمَا كَانُوا يَعْمَلُونَ ﴿١٠٠﴾
(الأنعام)

"Reville not those, whom they worship, besides Allah; lest, they out of spite, revile Allah in their ignorance. Thus have we made alluring to each people its own

¹ Tabrani (Haithami, Majma al-Zawaed: 5/636

² Ibne Qayyim, Ahkam ahl al-zimmah, Vol. 3, p.1357-1457

doings. In the end, they will return to their Lord and He shall then tell them the truth of all that they did."

(Qur'an ch.6. v. 108)

From above teachings, one may infer the attitude of Islam towards other religions, which do not claim revealed status or there is no evidence of such status for them. Disrespect shown towards revered personalities and deities of such religions; may also be declared a cognizable offence.



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